

COMPARATIVE PRINT

In compliance with clause 12(a) of rule XXI of the Rules of the House of Representatives, this document was generated to show how legislative text that may be considered by the House proposes to change existing law. It does not represent an official expression by the House and it should not be relied on in lieu of the legislative proposal to understand the proposed change(s).

Omitted text is enclosed in black brackets, new matter is proposed in italics, and existing law in which no change is proposed is shown in roman. Typesetting and stylistic characteristics, particularly in the headings and indentations, may not conform to how the proposed text, if adopted, would be executed in current law. This comparative print may not illustrate changes to tables of contents if the legislative text is proposing such a change(s).

FINANCIAL STABILITY ACT OF 2010

* * * * *

TITLE I—FINANCIAL STABILITY

* * * * *

Subtitle A—Financial Stability Oversight Council

* * * * *

SEC. 113. AUTHORITY TO REQUIRE SUPERVISION AND REGULATION OF CERTAIN NONBANK FINANCIAL COMPANIES.

(a) U.S. NONBANK FINANCIAL COMPANIES SUPERVISED BY THE BOARD OF GOVERNORS.—

(1) DETERMINATION.—The Council, on a nondelegable basis and by a vote of not fewer than $\frac{2}{3}$ of the voting members then serving, including an affirmative vote by the Chairperson, may 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.

(2) CONSIDERATIONS.—In making a determination under paragraph (1), the Council shall consider—

- (A) the extent of the leverage of the company;
- (B) the extent and nature of the 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 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, 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 degree to which the company is already regulated by 1 or more primary financial regulatory agencies;
- (I) the amount and nature of the financial assets of the company;
- (J) the amount and types of the liabilities of the company, including the degree of reliance on short-term funding; **[and]**

(K) the appropriateness of the imposition of prudential standards as opposed to other forms of regulation to mitigate the identified risks; and

[(K)] *(L) any other risk-related factors that the Council deems appropriate.*

(b) FOREIGN NONBANK FINANCIAL COMPANIES SUPERVISED BY THE BOARD OF GOVERNORS.—

(1) DETERMINATION.—The Council, on a nondelegable basis and by a vote of not fewer than $\frac{2}{3}$ of the voting members then serving, including an affirmative vote by the Chairperson, may determine that a foreign 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 foreign nonbank financial company, or the nature, scope, size, scale, concentration, interconnectedness, or mix of the activities of the foreign nonbank financial company, could pose a threat to the financial stability of the United States.

(2) CONSIDERATIONS.—In making a determination under paragraph (1), the Council shall consider—

(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;

(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) the appropriateness of the imposition of prudential standards as opposed to other forms of regulation to mitigate the identified risks; and*

[(K)] *(L) any other risk-related factors that the Council deems appropriate.*

(c) ANTI-EVASION.—

(1) DETERMINATIONS.—In order to avoid evasion of this title, the Council, on its own initiative or at the request of the Board of Governors, may determine, on a nondelegable basis and by a vote of not fewer than $\frac{2}{3}$ of the voting members then serving, including an affirmative vote by the Chairperson, that—

(A) material financial distress related to, or the nature, scope, size, scale, concentration, interconnectedness, or mix of, the financial activities conducted directly or indirectly by a company incorporated or organized under the laws of the United States or any State or the financial activities in the United States of a company incorporated or organized in a country other than the United States would pose a threat to the financial stability of the United States, based on consideration of the factors in subsection (a)(2) or (b)(2), as applicable;

(B) the company is organized or operates in such a manner as to evade the application of this title; and

(C) such financial activities of the company shall be supervised by the Board of Governors and subject to prudential standards in accordance with this title, consistent with paragraph (3).

(2) REPORT.—Upon making a determination under paragraph (1), the Council shall submit a report to the appropriate committees of Congress detailing the reasons for making such determination.

(3) CONSOLIDATED SUPERVISION OF ONLY FINANCIAL ACTIVITIES; ESTABLISHMENT OF AN INTERMEDIATE HOLDING COMPANY.—

(A) ESTABLISHMENT OF AN INTERMEDIATE HOLDING COMPANY.—Upon a determination under paragraph (1), the company that is the subject of the determination may establish an intermediate holding company in which the financial activities of such company and its subsidiaries shall be conducted (other than the activities described in section 167(b)(2)) in compliance with any regulations or guidance provided by the Board of Governors. Such intermediate holding company shall be subject to the supervision of the Board of Governors and to prudential standards under this title as if the intermediate holding company were a nonbank financial company supervised by the Board of Governors.

(B) ACTION OF THE BOARD OF GOVERNORS.—To facilitate the supervision of the financial activities subject to the determination in paragraph (1), the Board of Governors may require a company to establish an intermediate holding company, as provided for in section 167, which would be subject to the supervision of the Board of Governors and to prudential standards under this title, as if the intermediate holding company were a nonbank financial company supervised by the Board of Governors.

(4) NOTICE AND OPPORTUNITY FOR HEARING AND FINAL DETERMINATION; JUDICIAL REVIEW.—Subsections (d) through (h) shall apply to determinations made by the Council pursuant to paragraph (1) in the same manner as such subsections apply to nonbank financial companies.

(5) COVERED FINANCIAL ACTIVITIES.—For purposes of this subsection, the term “financial activities”—

(A) means activities that are financial in nature (as defined in section 4(k) of the Bank Holding Company Act of 1956);

(B) includes the ownership or control of one or more insured depository institutions; and

(C) does not include internal financial activities conducted for the company or any affiliate thereof, including internal treasury, investment, and employee benefit functions.

(6) ONLY FINANCIAL ACTIVITIES SUBJECT TO PRUDENTIAL SUPERVISION.—Nonfinancial activities of the company shall not be subject to supervision by the Board of Governors and prudential standards of the Board. For purposes of this Act, the financial activities that are the subject of the determination in paragraph (1) shall be subject to the same requirements as a nonbank financial company supervised by the Board of Governors. Nothing in this paragraph shall prohibit or limit the authority of the Board of Governors to apply prudential standards under this title to the financial activities that are subject to the determination in paragraph (1).

[(d) REEVALUATION AND RESCISSION.—The Council shall—

[(1) not less frequently than annually, reevaluate each determination made under subsections (a) and (b) with respect to such nonbank financial company supervised by the Board of Governors; and

[(2) rescind any such determination, if the Council, by a vote of not fewer than $\frac{2}{3}$ of the voting members then serving, including an affirmative vote by the Chairperson, determines that the nonbank financial company no longer meets the standards under subsection (a) or (b), as applicable.

[(e) NOTICE AND OPPORTUNITY FOR HEARING AND FINAL DETERMINATION.—

[(1) IN GENERAL.—The Council shall provide to a nonbank financial company written notice of a proposed determination of the Council, including an explanation of the basis of the proposed determination of the Council, that a nonbank financial company shall be supervised by the Board of Governors and shall be subject to prudential standards in accordance with this title.

[(2) HEARING.—Not later than 30 days after the date of receipt of any notice of a proposed determination under paragraph (1), the nonbank financial company may request, in writing, an opportunity for a written or oral hearing before the Council to contest the proposed determination. Upon receipt of a timely request, the Council shall fix a time (not later than 30 days after the date of receipt of the request) and place at which such company may appear, personally or through counsel, to submit written materials (or, at the sole discretion of the Council, oral testimony and oral argument).

[(3) FINAL DETERMINATION.—Not later than 60 days after the date of a hearing under paragraph (2), the Council shall notify the nonbank financial company of the final determination of the Council, which shall contain a statement of the basis for the decision of the Council.

[(4) NO HEARING REQUESTED.—If a nonbank financial company does not make a timely request for a hearing, the Council shall notify the nonbank financial company, in writing, of the final determination of the Council under subsection (a) or (b), as applicable, not later than 10 days after the date by which the company may request a hearing under paragraph (2).]

(d) REEVALUATION AND RESCISSION.—

(1) ANNUAL REEVALUATION.—*Not less frequently than annually, the Council shall reevaluate each determination made under subsections (a) and (b) with respect to a nonbank financial company supervised by the Board of Governors and shall—*

(A) *provide written notice to the nonbank financial company being reevaluated and afford such company an opportunity to submit written materials, within such time as the Council determines to be appropriate (but which shall be not less than 30 days after the date of receipt by the company of such notice), to contest the determination, including materials concerning whether, in the company's view, material financial distress at the company, or the nature, scope, size, scale, concentration, interconnectedness, or mix of the activities of the company could pose a threat to the financial stability of the United States;*

(B) *provide an opportunity for the nonbank financial company to meet with the Council to present the information described in subparagraph (A); and*

(C) *if the Council does not rescind the determination, provide notice to the nonbank financial company, its primary financial regulatory agency and the primary financial regulatory agency of any of the company's significant subsidiaries of the reasons for the Council's decision, which notice shall address with specificity how the Council assessed the material factors presented by the company under subparagraphs (A) and (B).*

(2) PERIODIC REEVALUATION.—

(A) REVIEW.—*Every 5 years after the date of a final determination with respect to a nonbank financial company under subsection (a) or (b), as applicable, the nonbank financial company may submit a written request to the Council for a reevaluation of such determination. Upon receipt of such a request, the Council shall conduct a reevaluation of such determination and hold a vote on whether to rescind such determination.*

(B) PROCEDURES.—*Upon receipt of a written request under paragraph (A), the Council shall fix a time (not earlier than 30 days after the date of receipt of the request) and place at which such company may appear, personally or through counsel, to—*

(i) *submit written materials (which may include a plan to modify the company's business, structure, or operations, which shall specify the length of the implementation period); and*

(ii) *provide oral testimony and oral argument before the members of the Council.*

(C) TREATMENT OF PLAN.—*If the company submits a plan in accordance with subparagraph (B)(i), the Council shall consider whether the plan, if implemented, would cause the company to no longer meet the standards for a final determination under subsection (a) or (b), as applicable. The Council shall provide the nonbank financial company an opportunity to revise the plan after consultation with the Council.*

(D) EXPLANATION FOR CERTAIN COMPANIES.—*With respect to a reevaluation under this paragraph where the determination being reevaluated was made before the date of enactment of this paragraph, the nonbank financial company may require the Council, as part of such reevaluation, to explain with specificity the basis for such determination.*

(3) RESCISSION OF DETERMINATION.—

(A) IN GENERAL.—*If the Council, by a vote of not fewer than 2/3 of the voting members then serving, including an affirmative vote by the Chairperson, determines under this subsection that a nonbank financial company no longer meets the standards for a final determination under subsection (a) or (b), as applicable, the Council shall rescind such determination.*

(B) APPROVAL OF COMPANY PLAN.—*Approval by the Council of a plan submitted or revised in accordance with paragraph (2) shall require a vote of not fewer than 2/3 of the voting members then serving, including an affirmative vote by the Chairperson. If such plan is approved by the Council, the company shall implement the plan during the period identified in the plan, except that the Council, in its sole discretion and upon request from the company, may grant one or more extensions of the implementation period. After the end of the implementation period, including any extensions granted by the Council, the Council shall proceed to a vote as described under subparagraph (A).*

(e) REQUIREMENTS FOR PROPOSED DETERMINATION, NOTICE AND OPPORTUNITY FOR HEARING, AND FINAL DETERMINATION.—

(1) NOTICE OF IDENTIFICATION FOR INITIAL EVALUATION AND OPPORTUNITY FOR VOLUNTARY SUBMISSION.—Upon identifying a nonbank financial company for comprehensive analysis of the potential for the nonbank company to pose a threat to the financial stability of the United States, the Council shall provide the nonbank financial company with—

(A) written notice that explains with specificity the basis for so identifying the company, a copy of which shall be provided to the company's primary financial regulatory agency;

(B) an opportunity to submit written materials for consideration by the Council as part of the Council's initial evaluation of the risk profile and characteristics of the company;

(C) an opportunity to meet with the Council to discuss the Council's analysis; and

(D) a list of the public sources of information being considered by the Council as part of such analysis.

(2) REQUIREMENTS BEFORE MAKING A PROPOSED DETERMINATION.—Before making a proposed determination with respect to a nonbank financial company under paragraph (3), the Council shall—

(A) by a vote of not fewer than $\frac{2}{3}$ of the voting members then serving, including an affirmative vote by the Chairperson, approve a resolution that identifies with specificity any risks to the financial stability of the United States the Council has identified relating to the nonbank financial company;

(B) with respect to nonbank financial company with a primary financial regulatory agency, provide a copy of the resolution described under subparagraph (A) to the primary financial regulatory agency and provide such agency with at least 180 days from the receipt of the resolution to—

(i) consider the risks identified in the resolution; and

(ii) provide a written response to the Council that includes its assessment of the risks identified and the degree to which they are or could be addressed by existing regulation and, as appropriate, issue proposed regulations or undertake other regulatory action to mitigate the identified risks;

(C) provide the nonbank financial company with written notice that the Council—

(i) is considering whether to make a proposed determination with respect to the nonbank financial company under subsection (a) or (b), as applicable, which notice explains with specificity the basis for the Council's consideration, including any aspects of the company's operations or activities that are a primary focus for the Council; or

(ii) has determined not to subject the company to further review, which action shall not preclude the Council from issuing a notice to the company under subparagraph (1)(A) at a future time; and

(D) in the case of a notice to the nonbank financial company under subparagraph

(C)(i), provide the company with—

(i) an opportunity to meet with the Council to discuss the Council's analysis;

(ii) an opportunity to submit written materials, within such time as the Council deems appropriate (but not less than 30 days after the date of receipt by the company of the notice described under clause (i)), to the Council to inform the Council's consideration of the nonbank financial company for a proposed determination, including materials concerning the company's views as to whether it satisfies the standard for determination set forth in subsection (a) or (b), as applicable;

(iii) an explanation of how any request by the Council for information from the nonbank financial company relates to potential risks to the financial stability of the United States and the Council's analysis of the company;

(iv) written notice when the Council deems its evidentiary record regarding such nonbank financial company to be complete; and

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

(3) PROPOSED DETERMINATION.—

(A) VOTING.—The Council may, by a vote of not fewer than $\frac{2}{3}$ of the voting members then serving, including an affirmative vote by the Chairperson, propose to make a determination in accordance with the provisions of subsection (a) or (b), as applicable, with respect to a nonbank financial company.

(B) DEADLINE FOR MAKING A PROPOSED DETERMINATION.—With respect to a nonbank financial company provided with a written notice under paragraph (2)(C)(i), if the Council

does not provide the company with the written notice of a proposed determination described under paragraph (4) within the 180-day period following the date on which the Council notifies the company under paragraph (2)(C) that the evidentiary record is complete, the Council may not make such a proposed determination with respect to such company unless the Council repeats the procedures described under paragraph (2).

(C) *REVIEW OF ACTIONS OF PRIMARY FINANCIAL REGULATORY AGENCY.*—With respect to a nonbank financial company with a primary financial regulatory agency, the Council may not vote under subparagraph (A) to make a proposed determination unless—

(i) the Council first determines that any proposed regulations or other regulatory actions taken by the primary financial regulatory agency after receipt of the resolution described under paragraph (2)(A) are insufficient to mitigate the risks identified in the resolution;

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

(iii) the period allowed by the Council under paragraph (2)(B) has elapsed and the primary financial regulatory agency has taken no action in response to the resolution.

(4) *NOTICE OF PROPOSED DETERMINATION.*—The Council shall—

(A) provide to a nonbank financial company written notice of a proposed determination of the Council, including an explanation of the basis of the proposed determination of the Council, that a nonbank financial company shall be supervised by the Board of Governors and shall be subject to prudential standards in accordance with this title, an explanation of the specific risks to the financial stability of the United States presented by the nonbank financial company, and a detailed explanation of why existing regulations or other regulatory action by the company's primary financial regulatory agency, if any, is insufficient to mitigate such risk; and

(B) provide the primary financial regulatory agency of the nonbank financial company a copy of the nonpublic written explanation of the Council's proposed determination.

(5) *HEARING.*—

(A) *IN GENERAL.*—Not later than 30 days after the date of receipt of any notice of a proposed determination under paragraph (4), the nonbank financial company may request, in writing, an opportunity for a written or oral hearing before the Council to contest the proposed determination, including the opportunity to present a plan to modify the company's business, structure, or operations in order to mitigate the risks identified in the notice, and which plan shall also include any steps the company expects to take during the implementation period to mitigate such risks.

(B) *GRANT OF HEARING.*—Upon receipt of a timely request, the Council shall fix a time (not earlier than 30 days after the date of receipt of the request) and place at which such company may appear, personally or through counsel, to—

(i) submit written materials (which may include a plan to modify the company's business, structure, or operations); or

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

(6) *COUNCIL CONSIDERATION OF COMPANY PLAN.*—

(A) *IN GENERAL.*—If a nonbank financial company submits a plan in accordance with paragraph (5), the Council shall, prior to making a final determination—

(i) consider whether the plan, if implemented, would mitigate the risks identified in the notice under paragraph (4); and

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

(B) *VOTING.*—Approval by the Council of a plan submitted under paragraph (5) or revised under subparagraph (A)(ii) shall require a vote of not fewer than $\frac{2}{3}$ of the voting members then serving, including an affirmative vote by the Chairperson.

(C) *IMPLEMENTATION OF APPROVED PLAN.*—With respect to a nonbank financial company's plan approved by the Council under subparagraph (B), the company shall have one year to implement the plan, except that the Council, in its sole discretion and upon request from the nonbank financial company, may grant one or more extensions of the implementation period.

(D) *OVERSIGHT OF IMPLEMENTATION.*—

(i) *PERIODIC REPORTS.*—The Council, acting through the Office of Financial Research, may require the submission of periodic reports from a nonbank financial company for the purpose of evaluating the company's progress in implementing a plan approved by the Council under subparagraph (B).

(ii) *INSPECTIONS.*—The Council may direct the primary financial regulatory agency of a nonbank financial company or its subsidiaries (or, if none, the Board of Governors) to inspect the company or its subsidiaries for the purpose of evaluating the implementation of the company's plan.

(E) *AUTHORITY TO RESCIND APPROVAL.*—

(i) *IN GENERAL.*—During the implementation period described under subparagraph (C), including any extensions granted by the Council, the Council shall retain the authority to rescind its approval of the plan if the Council finds, by a vote of not fewer than $\frac{2}{3}$ of the voting members then serving, including an affirmative vote by the Chairperson, that the company's implementation of the plan is no longer sufficient to mitigate or prevent the risks identified in the resolution described under paragraph (2)(A).

(ii) *FINAL DETERMINATION VOTE.*—The Council may proceed to a vote on final determination under subsection (a) or (b), as applicable, not earlier than 10 days after providing the nonbank financial company with written notice that the Council has rescinded the approval of the company's plan pursuant to clause (i).

(F) *ACTIONS AFTER IMPLEMENTATION.*—

(i) *EVALUATION OF IMPLEMENTATION.*—After the end of the implementation period described under subparagraph (C), including any extensions granted by the Council, the Council shall consider whether the plan, as implemented by the nonbank financial company, adequately mitigates or prevents the risks identified in the resolution described under paragraph (2)(A).

(ii) *VOTING.*—If, after performing an evaluation under clause (i), not fewer than $\frac{2}{3}$ of the voting members of the Council then serving, including an affirmative vote by the Chairperson, determine that the plan, as implemented, adequately mitigates or prevents the identified risks, the Council shall not make a final determination under subsection (a) or (b), as applicable, with respect to the nonbank financial company and shall notify the company of the Council's decision to take no further action.

(7) *FINAL COUNCIL DECISIONS.*—

(A) *IN GENERAL.*—Not later than 90 days after the date of a hearing under paragraph (5), the Council shall notify the nonbank financial company of—

(i) a final determination under subsection (a) or (b), as applicable;

(ii) the Council's approval of a plan submitted by the nonbank financial company under paragraph (5) or revised under paragraph (6); or

(iii) the Council's decision to take no further action with respect to the nonbank financial company.

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

(C) *NOTICE TO PRIMARY FINANCIAL REGULATORY AGENCY.*—In the case of a final determination under subsection (a) or (b), the Council shall provide the primary financial regulatory agency of the nonbank financial company a copy of the nonpublic written explanation of the Council's final determination.

(f) *EMERGENCY EXCEPTION.*—

(1) *IN GENERAL.*—The Council may waive or modify the requirements of subsection (e) with respect to a nonbank financial company, if the Council determines, by a vote of not fewer than $\frac{2}{3}$ of the voting members then serving, including an affirmative vote by the Chairperson, that such waiver or modification is necessary or appropriate to prevent or mitigate threats posed by the nonbank financial company to the financial stability of the United States.

(2) *NOTICE.*—The Council shall provide notice of a waiver or modification under this subsection to the nonbank financial company concerned as soon as practicable, but not later than 24 hours after the waiver or modification is granted.

(3) *INTERNATIONAL COORDINATION.*—In making a determination under paragraph (1), the Council shall consult with the appropriate home country supervisor, if any, of the foreign nonbank financial company that is being considered for such a determination.

(4) OPPORTUNITY FOR HEARING.—The Council shall allow a nonbank financial company to request, in writing, an opportunity for a written or oral hearing before the Council to contest a waiver or modification under this subsection, not later than 10 days after the date of receipt of notice of the waiver or modification by the company. Upon receipt of a timely request, the Council shall fix a time (not later than 15 days after the date of receipt of the request) and place at which the nonbank financial company may appear, personally or through counsel, to submit written materials (or, at the sole discretion of the Council, oral testimony and oral argument).

(5) NOTICE OF FINAL DETERMINATION.—Not later than 30 days after the date of any hearing under paragraph (4), the Council shall notify the subject nonbank financial company of the final determination of the Council under this subsection, which shall contain a statement of the basis for the decision of the Council.

(g) CONSULTATION.—The Council shall consult with the primary financial regulatory agency, if any, for each nonbank financial company or subsidiary of a nonbank financial company that is being considered for supervision by the Board of Governors under this section [before the Council makes any final determination] *from the outset of the Council's consideration of the company, including before the Council makes any proposed or final determination* with respect to such nonbank financial company under subsection (a), (b), or (c).

(h) JUDICIAL REVIEW.—If the Council makes a final determination under this section with respect to a nonbank financial company, such nonbank financial company may, not later than 30 days after the date of receipt of the notice of final determination under subsection (d)(2), (e)(3), or (f)(5), bring an action in the United States district court for the judicial district in which the home office of such nonbank financial company is located, or in the United States District Court for the District of Columbia, for an order requiring that the final determination be rescinded, and the court shall, upon review, dismiss such action or direct the final determination to be rescinded. Review of such an action shall be limited to whether the final determination made under this section was arbitrary and capricious.

(i) INTERNATIONAL COORDINATION.—In exercising its duties under this title with respect to foreign nonbank financial companies, foreign-based bank holding companies, and cross-border activities and markets, the Council shall consult with appropriate foreign regulatory authorities, to the extent appropriate.

(j) PUBLIC DISCLOSURE REQUIREMENT.—*The Council shall—*

(1) *in each case where a nonbank financial company has been notified that it is subject to the Council's review and the company has publicly disclosed such fact, confirm that the nonbank financial company is subject to the Council's review, in response to a request from a third party;*

(2) *upon making a final determination, publicly provide a written explanation of the basis for its decision with sufficient detail to provide the public with an understanding of the specific bases of the Council's determination, including any assumptions related thereof, subject to the requirements of section 112(d)(5);*

(3) *include, in the annual report required by section 112, the number of nonbank financial companies from the previous year subject to preliminary analysis, further review, and subject to a proposed or final determination; and*

(4) *within 90 days after the enactment of this subsection, publish information regarding its methodology for calculating any quantitative thresholds or other metrics used to identify nonbank financial companies for analysis by the Council.*

(k) PERIODIC ASSESSMENT OF THE IMPACT OF DESIGNATIONS.—

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

(A) *conduct a study of the Council's determinations that nonbank financial companies shall be supervised by the Board of Governors and shall be subject to prudential standards; and*

(B) *comprehensively assess the impact of such determinations on the companies for which such determinations were made and the wider economy, including whether such determinations are having the intended result of improving the financial stability of the United States.*

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

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

(B) identifies whether any of the Council's determinations should be rescinded or whether related regulations or regulatory guidance should be modified, streamlined, expanded, or repealed.

* * * * *

FEDERAL RESERVE ACT

* * * * *

DIVISION OF EARNINGS.

SEC. 7. (a) DIVIDENDS AND SURPLUS FUNDS OF RESERVE BANKS.—

(1) STOCKHOLDER DIVIDENDS.—

(A) DIVIDEND AMOUNT.—After all necessary expenses of a Federal reserve bank have been paid or provided for, the stockholders of the bank shall be entitled to receive an annual dividend on paid-in capital stock of—

(i) in the case of a stockholder with total consolidated assets of more than \$10,000,000,000, the smaller of—

(I) the rate equal to the high yield of the 10-year Treasury note auctioned at the last auction held prior to the payment of such dividend; and

(II) 6 percent; and

(ii) in the case of a stockholder with total consolidated assets of \$10,000,000,000 or less, 6 percent.

(B) DIVIDEND CUMULATIVE.—The entitlement to dividends under subparagraph (A) shall be cumulative.

(C) INFLATION ADJUSTMENT.—The Board of Governors of the Federal Reserve System shall annually adjust the dollar amounts of total consolidated assets specified under subparagraph (A) to reflect the change in the Gross Domestic Product Price Index, published by the Bureau of Economic Analysis.

(2) DEPOSIT OF NET EARNINGS IN SURPLUS FUND.—That portion of net earnings of each Federal reserve bank which remains after dividend claims under paragraph (1)(A) have been fully met shall be deposited in the surplus fund of the bank.

(3) LIMITATION ON SURPLUS FUNDS.—

(A) IN GENERAL.—The aggregate amount of the surplus funds of the Federal reserve banks may not exceed ~~[\$7,500,000,000]~~ \$7,451,428,571.

(B) TRANSFER TO THE GENERAL FUND.—Any amounts of the surplus funds of the Federal reserve banks that exceed, or would exceed, the limitation under subparagraph (A) shall be transferred to the Board of Governors of the Federal Reserve System for transfer to the Secretary of the Treasury for deposit in the general fund of the Treasury.

(b) TRANSFER FOR FISCAL YEAR 2000.—

(1) IN GENERAL.—The Federal reserve banks shall transfer from the surplus funds of such banks to the Board of Governors of the Federal Reserve System for transfer to the Secretary of the Treasury for deposit in the general fund of the Treasury, a total amount of \$3,752,000,000 in fiscal year 2000.

(2) ALLOCATED BY FED.—Of the total amount required to be paid by the Federal reserve banks under paragraph (1) for fiscal year 2000, the Board shall determine the amount each such bank shall pay in such fiscal year.

(3) REPLENISHMENT OF SURPLUS FUND PROHIBITED.—During fiscal year 2000, no Federal reserve bank may replenish such bank's surplus fund by the amount of any transfer by such bank under paragraph (1).

(b) USE OF EARNINGS TRANSFERRED TO THE TREASURY.—The net earnings derived by the United States from Federal reserve banks shall, in the discretion of the Secretary, be used to supplement the gold reserve held against outstanding United States notes, or shall be applied to the reduction of the outstanding bonded indebtedness of the United States under regulations to be prescribed by the Secretary of the Treasury. Should a Federal reserve bank be dissolved or go into

liquidation, any surplus remaining, after the payment of all debts, dividend requirements as here-
inbefore provided, and the par value of the stock, shall be paid to and become the property of the
United States and shall be similarly applied.

(c) EXEMPTION FROM TAXATION.—Federal reserve banks, including the capital stock and sur-
plus therein, and the income derived therefrom shall be exempt from Federal, State, and local tax-
ation, except taxes upon real estate.

* * * * *