CENTER FOR CAPITAL MARKETS COMPETITIVENESS

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May 13, 2019

Mr. Mark Schlegel
Financial Stability Oversight Council
1500 Pennsylvania Avenue NW, Room 2208B
Washington, D.C. 20220

Re: Authority to Require Supervision and Regulation of Certain Nonbank Financial Companies – Document Number 2012-8627, RIN 4030-ZA00

Dear Mr. Schlegel:

The U.S. Chamber of Commerce's Center for Capital Markets Competitiveness (CCMC) appreciates the opportunity to respond to the Financial Stability Oversight Council's ("FSOC" or "the Council") notice of proposed interpretive guidance (the "Proposed Guidance").

In 2013, the Chamber released a report with proposals to reform FSOC and create processes to appropriately identify and manage systemic risk.[1] We are pleased that many of the provisions of that report are included within the Proposed Guidance. Most significantly, the Chamber supports FSOC's focus on activities instead of entity-based designation as systemically important financial institutions ("SIFIs"). The Chamber also appreciates the recognition in the guidance to use SIFI designations only as a regulatory last resort. Furthermore, the Proposed Guidance includes a number of important due-process reforms. These measures create certainty that allow nonbank financial companies to address risks.

Nevertheless, the Chamber has some recommendations for the Proposed Guidance and our comments are intended to improve or clarify the proposal to

[1] U.S. Chamber of Commerce, Center for Capital Markets Competitiveness. Financial Stability Oversight Council Reform Agenda. Available at https://www.uschamber.com/sites/default/files/documents/files/2013_financial-stability-oversight-council-reform-agenda.pdf

achieve the Council's objectives. We encourage the Council to move forward expediently in reviewing and adopting recommendations to finalize the Proposed Guidance.

I. Formalization of an Activities-Based Approach

The Chamber supports the Council's shift to prioritize the use of an activities-based approach for addressing systemic risk in the financial sector. As noted in the Guidance, "The Council intends to seek to identify, assess, and address potential risks and emerging threats on a system-wide basis by taking an activities-based approach to its work." We agree with FSOC's assessment that this approach "will enable the Council to more effectively identify and address the underlying sources of risks to financial stability, rather than addressing risks only at a particular nonbank financial company that may be designated."

The Chamber interprets the development and prioritization of an activities-based approach as an appropriate rejection of the presumption that the Council's purpose is to designate nonbank financial firms as systemically important and a recognition that it is better able to achieve the purposes it was created to achieve through other more efficient and effective means. The work formalizes work started under the Administration of President Obama where FSOC directed staff to "undertake a more focused analysis of industry-wide products and activities to assess potential risks" as it related to the asset management industry.[2]

The purposes of the Council are to identify risks to U.S. financial stability and respond to emerging threats. It can best accomplish these goals by facilitating information-sharing and coordination among primary regulators – not by supplanting their judgement or regulatory frameworks or by subjecting individual nonbanks to bank-style regulation by the Federal Reserve Board. In short, designations are not a metric for achieving FSOC's mandate.

The Chamber agrees with the Proposed Guidance's assessment that primary financial regulators should be a key component of the activities-based approach. As the Proposed Guidance notes, consultation with "relevant financial regulatory agencies" will assist the Council in achieving its goals of addressing risks on a "system-wide basis." Additionally, the Proposed Guidance properly notes that

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[2] U.S. Department of the Treasury, Financial Stability Oversight Council. (2014, July 31). Financial Stability Oversight Council Meeting July 31, 2014 [Press release]. Retrieved from https://www.treasury.gov/initiatives/fsoc/council-meetings/Documents/July 31 2014.pdf

relevant financial regulatory agencies "generally possess greater information and expertise with respect to company, product, and market risks…"

The Council should focus its work on assessing potential risks to the financial system. If they are truly systemic in magnitude and duration, they will transcend individual companies and are likely to span industries and markets. This requires a broad perspective to identify them and address them. The Proposed Guidance notes that the Council intends to "monitor diverse financial markets and market developments, in consultation with relevant financial regulatory agencies, to identify products, activities, or practices that could pose risks to financial stability." This is described as the first step in a two-step process for administering an activities-based approach. If the Council were to identify a potential risk to U.S. financial stability – after using a robust analysis – then it would work with the relevant financial regulatory agencies at the federal and state levels to seek the implementation of actions to address the identified potential risk. As the Chamber noted in its August 2017 Letter to Secretary Mnuchin, this approach is a more effective means of addressing risk, promoting financial stability, and encouraging economic growth [than Sec. 113 determinations].

The Council should use its Sec. 120 authority after informal and nonpublic actions have been tried and deemed insufficient. In general, Sec. 120 states, "The Council may provide for more stringent regulation of a financial activity by issuing recommendations to the primary financial regulatory agencies to apply new or heightened standards and safeguards." This formalized authority to make recommendations should only be exercised under limited circumstances. The Council has the important responsibility of making its member agencies better able to identify and address potential systemic risk in the financial system, but it should not be directing the day-to-day activities of financial regulators. The Chamber appreciates the Proposed Guidance underscoring that the Sec. 120 process is a "transparent process" that includes the opportunity for public notice and comment.

II. <u>Proposed Analytic Framework for the Council's Evaluation of Nonbank Financial Companies for Potential Designation Under Section 113</u>

a. Statutory Standards and Considerations

In general, the Chamber supports close adherence to the statutory standards and considerations for section 113 designations as defined in the Dodd-Frank Act.

Granted, some clarification of definitions would provide market participants with more regulatory certainty.

While FSOC recognizes the need to better define key terms, several terms still lack clear definitions and therefore do not provide regulators and companies notice of what may trigger review or designation. For example, FSOC should commit to propose for comment and adopt quantitative metrics for terms like "impairment of financial intermediation or of financial market functioning," "severe damage on the broader economy," "overall stress in the financial services industry," and "a weak macroeconomic environment" to help clarify the standards before using them to assess risk. In addition, the activities and associated risks FSOC monitors should be of the scope and size that would have significant impact to the U.S. economy as a whole. Any damage must be material and long-lasting to meet FSOC's standard. Short-term volatility, which is typical of price discovery in healthy markets should be distinguished. Finally, the Council should be afforded appropriate flexibility to consider systemic risk. However, this broad scope of consideration should not be applied without appropriate transparency.

The Chamber supports removing the six category framework for designations under section 113 of the Dodd-Frank Act. The 2012 Interpretive Guidance grouped the ten statutory considerations and any additional risk-related factors into six categories: size, interconnectedness, substitutability, leverage, liquidity risk and maturity mismatch, and existing regulatory scrutiny. The Proposed Guidance eliminates this six-category framework noting it "has not proven useful in guiding the Council's evaluations, and unnecessarily complicates the framework for the Council's analysis."

The Council's analysis should rely on the risk factors delineated in section 113(a)(2) of the Dodd-Frank Act. There does not appear to be a strong justification for grouping the statutory risk-factors into categories created by the Council in the 2012 Guidance. Grouping of categories may place inappropriate or unintentional emphasis on certain risk factors. Additionally, grouping the risk factors into new categories may confuse market participants or misinform their expectation for how the Council will make designations under section 113 of the Dodd-Frank Act. Therefore, new categories should not be instated in the future without strong justification for how they will improve the designation process and the Council's ability to assess risk. Similarly, it is a major improvement to eliminate Stage 1 of the current guidance, which wastes resources by requiring FSOC to review individualcompanies that meet arbitrary numerical criteria with no demonstrable connection to U.S. financial stability.

b. Cost-Benefit Analysis

The Chamber appreciates the inclusion of a cost benefit analysis in the designation process. The Proposed Guidance states, "The Council proposes to make a designation under section 113 only if the expected benefits justify the expected costs that the determination would impose." It is important that a robust analysis be conducted that accurately measures the cost and benefits of designating a nonbank financial company as systemically important. The Proposed Guidance is a significant improvement, but it could be enhanced if additional considerations were included in the cost-benefit analysis.

The Chamber recommends additional considerations for how FSOC would analyze costs. Most important, FSOC must know what prudential requirements and other regulations would apply to the nonbank financial company under consideration for designation under section 113. The Federal Reserve has discretion for prescribing and enforcing regulatory requirements that could widely vary. Therefore, without knowing what new requirements would be imposed on the entity under consideration for designation, the assessment of costs would be speculative. The Federal Reserve should provide information about the prudential requirements, other regulations, and estimated costs before FSOC votes on a proposed designation.

FSOC should also consider indirect costs to the financial system. Importantly, regulatory costs imposed on entities are likely incurred by their customers. Depending on the entity under consideration, these are costs that are potentially borne by individuals saving for retirement, insuring against risk to their property, or otherwise using financial products and services. Furthermore, designation of nonbank financial companies for supervision by the Federal Reserve could significantly change the competitive landscape for the market and affect competitors and counterparties. These are only some of the considerations of costs that could distort financial markets. These costs should be properly weighed against possible benefits of designation.

FSOC should not designate a nonbank financial company as systemically important unless it can demonstrate it would effectively mitigate system risk posed by that entity. There should not be a presumption that a designation under Sec. 113 limits systemic risk. The Chamber has previously argued that Sec. 113 determinations are blunt tools that have not demonstrated efficacy for mitigating systemic risk. The Council should consider the benefits of alternative approaches for addressing systemic risk.

Additionally, FSOC should develop a framework for measuring the impacts of designation. This would be consistent with GAO's finding that, "without such an analysis, Congress, the affected institutions, the public, and FSOC cannot determine whether the designations and associated oversight is actually helping to improve financial stability."[3] This framework should be used as part of the cost-benefit analysis prior to designation, and should also be used as FSOC regularly reviews the effectiveness of the designation.

Furthermore, we recommend requiring the use of a cost-benefit analysis when considering recommendations to primary financial regulatory agencies to apply any new or heightened standard.

Finally, cost-benefit analysis should be applied to any additional regulation the Council considers. There have been no economic or traditional analyses accompanying either of the 2011 proposed notices of rulemaking. As the Chamber wrote in its August 2017 letter to the Treasury Department, "It is difficult to understand how the Council can assess the desirability of such important rules without conducting and publishing an economic analysis."[4]

III. <u>Determination and Annual Re-evaluation Process</u>

The Chamber appreciates that the Council will now only pursue entity-specific determinations under section 113 if a potential risk or threat cannot be addressed through an activities-based approach. The Council should not pursue entity-specific determinations unless all other means for addressing concerns about systemic risk have been exhausted. Additionally, the Chamber appreciates action taken by the Council in recent years to remove the designations of nonbank financial firms.

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[3] United States Government Accountability Office. 2012. Financial Stability: New Council and Research Office Should Strengthen the Accountability and Transparency of Their Decisions. GAO-12-886. Available at, https://www.gao.gov/assets/650/648064.pdf

[4] Hirschman, D. T. (n.d.). Review of Financial Stability Oversight Council determination and designation processes pursuant to the Presidential Memorandum for the Secretary of the Treasury of April 21, 2017 [Letter written August 15, 2017 to U.S. Secretary of the Treasury, Steven T. Mnuchin]. Available at https://centerforcap.wpengine.com/wp-content/uploads/2017/08/CCMC-Comment-on-FSOC-SIFI-Designation-Process.pdf

The Council must be explicit that it will not conflate its activities-based with its entity-based designation process. The application of an activities-based approach should not be treated as a funnel to or preliminary stage for inevitable entities-based designations; the activities-based approach is a separate system of analysis and response that is the strongly preferred method for addressing systemic risk. There should be a clear delineation and prioritization between these two approaches for addressing systemic risk in order to avoid confusion and provide due process, along with a requirement that FSOC evaluate all possible activities-based approaches prior to considering a company for designation.

The Proposed Guidance would make improvements to the section 113 designation process. Specifically, the Proposed Guidance would condense the current three-state determination process by eliminate current stage 1, making certain procedural improvements, and incorporating certain provisions of the 2015 supplemental procedures. The Chamber also believes it is important for the Council to adhere to its statutory requirement to reevaluate the appropriateness of any existing designations under section 113.

a. Confidentiality

The Chamber believes the Proposed Guidance would be improved by additional assurances regarding confidentiality of information shared by companies with the Council and regulators. Including the following statements would encourage exchange of relevant qualitative and quantitative information by improving firms' confidence in the confidentiality of the information that they share:

1) The FSOC will pursue all legal and procedural steps to ensure that privileged, confidential and/or trade secret information shared with the Council by the nonbank financial company's existing regulators or directly by the company will be treated as confidential and not be shared with parties other than the FSOC, the existing regulators and the company; and,
2) This confidential treatment will be provided to all Council, regulator or company work product that incorporates such confidential information, including any written explanations or responses or challenges to proposed or final determinations or reevaluations.

b. Stage 1

The Chamber supports the changes proposed to Stage 1 of the designation process. Under the Proposed Guidance, the Council will notify nonbank financial companies identified as potentially posing risks to U.S. financial stability.

The Proposed Guidance would eliminate current Stage 1. As the Proposed Guidance notes, current stage 1, "generates confusion among firms and members of the public and is not compatible with the proposal to prioritize an activities-based approach." There is still some confusion about when Stage 1 would commence.

The Council should clarify when Stage 1 officially commences. This process should be formalized. It is not clear under what circumstances the Council would determine the activities-based approach has not addressed concerns about systemic risk. Therefore, the Proposed Guidance should establish a formalized consultation process between FSOC and the firm's primary regulator by applying more affirmative obligations in writing that it cannot address an identified systemic risk through an activities-based approach. FSOC should not be permitted to vote on whether to evaluate a company for designation before this acknowledgement in writing – which should include a list of findings to support the primary regulator's conclusion – has occurred.

It is also not clear what procedures the Council would use when deciding to move to Stage 1. At a minimum, the Chamber recommends a 2/3 vote by the Council principals, including an affirmative vote by its Chairman, that an identified systemic risk cannot be addressed via an activities-based approach before FSOC can evaluate a company under Stage 1 of the designation process.

The Chamber appreciates that the Council will not require the company to submit any information during Stage 1. This should help alleviate any unnecessary administrative burden. However, the Council should also clarify that the company should feel empowered to provide information they believe would address any concerns of the Council. This type of information sharing is an important aspect of the "pre-designation off-ramp."

The Chamber supports the formalization of the "pre-designation off-ramp" described by the Proposed Guidance. Companies should have the option to take actions in response to concerns raised by the Council. This would achieve the Council's objective of addressing systemic risk without the unnecessary burden of the in-depth evaluation under Stage 2 or potentially subjecting the company to enhanced prudential standards by the Federal Reserve Board. The Council should provide the company with both a statement of its reasons for advancing the company and a meaningful opportunity to respond to that statement. Finally, the Council must recognize it is under no obligation to initiate a Stage 2 designation simply because it has completed Stage 1 -- the presumption is that if concerns are alleviated through an improved understanding of the risk, or "de-risking" that Stage 2 is not necessary or appropriate. In addition, the final interpretive guidance should clarify that a majority vote of FSOC principals including the affirmative vote of the Chairperson is required to move a company into Stage 2 of the designation process.

c. Stage 2

The Chamber supports the proposed changes to Stage 2 of the designation process. Stage 2 will be used to conduct an in-depth evaluation of a company that the Council determines merits additional review after completing Stage 1. In general, the Chamber supports the improved opportunities for engagement between the company and the Council to ensure an accurate record is assembled in the event it were to move to designate.

The Proposed Guidance notes that in addition to relying on existing information, the Council will take steps to facilitate a transparent review process with the company during Stage 2. The Chamber's August 15, 2017 comment letter notes that the Council should embrace due process by providing companies an opportunity to review the record for the determination recommendation and an opportunity to rebut the record.[5] The Council should welcome such a review as it will illuminate flaws and strengthen the foundation for sound decisions.

The Proposed Guidance takes additional steps to embrace due process, but the Chamber believes there are opportunities for improvement. Specifically, staff on the Council's analytical team will be made available to meet with representatives of the company. Additionally, it provides the opportunity to meet with the Council's Deputies Committee to allow the company to "present any information or arguments it deems relevant to the Council's evaluation." We would request that the Proposed

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[5] Hirschman, D. T. (n.d.). Review of Financial Stability Oversight Council determination and designation processes pursuant to the Presidential Memorandum for the Secretary of the Treasury of April 21, 2017 [Letter written August 15, 2017 to U.S. Secretary of the Treasury, Steven T. Mnuchin]. Available at https://centerforcap.wpengine.com/wp-content/uploads/2017/08/CCMC-Comment-on-FSOC-SIFI-Designation-Process.pdf

Guidance include an explicit statement that companies can meet with FSOC principals and deputies one-on-one and in groups throughout the process. We understand that in the past, there has been ambiguity as to the ability of FSOC principals to meet with companies under consideration for designation. We believe that the ability to have a direct and ongoing dialogue with FSOC principals is essential to ensuring effective communication, transparency, and mutual understanding throughout the process. Additionally, the Chamber strongly recommends that FSOC be required to provide the full evidentiary record to the company at least 30 days before any decision is made by FSOC; this will provide the company with sufficient time to correct misinformation.

Finally, the Proposed Guidance notes the Council will notify the company when the Council believes that the evidentiary record regarding the company is complete. The company should be provided an opportunity to correct any errors or omissions of facts included in the record; at minimum, the record should reflect if the Company has noted any disagreement with the findings. Again, the presumption should be that if concerns are alleviated through an improved understanding of the risk, or "de-risking" that a designation is not necessary or appropriate.

d. Proposed Determination, Hearing

The Chamber appreciates clarification of the hearing process and other final steps before designation. As the Proposed Guidance notes, in accordance with section 113(e) of the Dodd-Frank Act, a nonbank financial company that is subject to a proposed determination may request a nonpublic hearing before the Council to contest the proposed determination. The Chamber's August 15, 2017 comment letter recommends that FSOC provide companies with the opportunity to compel the production of records and call witnesses at such a hearing.[6] Additionally, the hearing should provide companies with the opportunity to challenge the analysis relied upon by FSOC including the opportunity to challenge any expert analyses used to support the designation determination.

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[6] Hirschman, D. T. (n.d.). Review of Financial Stability Oversight Council determination and designation processes pursuant to the Presidential Memorandum for the Secretary of the Treasury of April 21, 2017 [Letter written August 15, 2017 to U.S. Secretary of the Treasury, Steven T. Mnuchin]. Available at https://centerforcap.wpengine.com/wp-content/uploads/2017/08/CCMC-Comment-on-FSOC-SIFI-Designation-Process.pdf

e. Annual Re-evaluations of Nonbank Financial Company Determinations

The Chamber supports a clearly delineated process, a so-called "off-ramp" for removing nonbank financial company SIFI designations including the institution of procedures improving engagement between designated firms and FSOC. As the Chamber noted in our August 2017 letter to Treasury, FSOC should create a clear "off ramp," formalize annual reevaluations, and create a meaningful opportunity to appeal designations.[7]

The Chamber supports the inclusion of additional procedural steps for the required reevaluations of designated firms. We agree that the process should be flexible instead of being overly prescriptive as long as expectations for removing a designation are clearly articulated and firms have opportunities to demonstrate they should no longer be subject to enhanced prudential standards. FSOC should communicate the steps that should be taken and provide designated firms confidence that designations will be rescinded if such actions are taken. The Chamber agrees with the statement, "If a company adequately addresses the potential risks identified in writing by the Council at the time of the final determination and in subsequent reevaluations, the Council should generally be expected to rescind its determination regarding the company."

The Council should provide an explanation to firms that have not had designations rescinded. This is a reasonable expectation of communication even if firms have not chosen to change their business or activities to address why they have been designated. FSOC should avoid creating new expectations or detailing new steps for firms to have their designation rescinded. Finally, the Chamber agrees with the assessment that the Council should use the same standards of review for reevaluations. In summary, the goalposts for designation should not be moved.

IV. Additional Recommendations

a. Treatment of Successor Companies

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[7] Hirschman, D. T. (n.d.). Review of Financial Stability Oversight Council determination and designation processes pursuant to the Presidential Memorandum for the Secretary of the Treasury of April 21, 2017 [Letter written August 15, 2017 to U.S. Secretary of the Treasury, Steven T. Mnuchin]. Available at https://centerforcap.wpengine.com/wp-content/uploads/2017/08/CCMC-Comment-on-FSOC-SIFI-Designation-Process.pdf

The Chamber has concerns about the Proposed Guidance's treatment of successor companies. Appendix A of the Proposed Guidance states that, "In addition, the Council intends to interpret 'nonbank financial company' as including any successor of a company that is subject to a final determination of the Council (emphasis added)." This interpretation is unnecessarily broad and would severely frustrate the ability of firms to spin off or sell assets. The Chamber requests this aspect of the Proposed Guidance be removed.

The proposed treatment of successor companies does not align with the Proposed Guidance's intention of reducing systemic risk. The Proposed Guidance notes that, "in the event the Council makes a final determination regarding a company, the Council intends to *encourage the company* or its regulators to take steps to mitigate the potential risks identified in the Council's written explanation of the basis for its final determination." Expanding the definition of "nonbank financial company" to successor companies would likely make them less valuable given the additional regulatory requirements imposed.

The proposed treatment of successor companies does not take into account the new circumstances after a change in ownership. The successor company does not necessarily present systemic risk, or at least not to the same degree, as when the Council originally made its determination. For example, the successor company would not necessarily have the same leverage or off-balance sheet exposures, or the same "nature, scope, size, scale, concentration, interconnectedness, and mix of activities of the company."

The Council should remove this aspect of the Proposed Guidance. Short of removal, the Chamber would recommend changes. Specifically, the Guidance should be revised to state "In addition, the Council intends to interpret 'nonbank financial company' as including a successor of a company that is subject to a final determination of the Council if such successor entity succeeds to substantially all of the assets and liabilities of the designated company."

b. Participation in International Standard Setting

The actions taken by the U.S. Treasury Department are noteworthy with respect to international standard setting bodies such as the Financial Stability Board ("FSB"), the International Association of Insurance Supervisors ("IAIS"), and the International Organization of Securities Commissioners ("IOSCO"). In recent years, these international standard-setters have shifted to developing activities-based approaches in evaluating systemic risk. For example, the International Association of Insurance Supervisors recently issued a public consultation for a "Holistic Framework for Systemic Risk in the Insurance Sector," that importantly recognizes the value of an activities-based approach, but is not as clear about a preference for an activities-based approach as the Council's Proposed Guidance.[8]

The Chamber also requests that the Treasury Department recognize the U.S. system of insurance and regulation of systemic risk when participating in international forums. The Council's Proposed Guidance appropriately recognizes a clear preference for an activities-based approach for addressing concerns with systemic risk as well as the primacy of state insurance functional regulators. The NAIC is engaged in similar work on systemic risk through its macro-prudential initiative.[9]

The Treasury Department should make clear in international forums, including standard setting bodies, that an activities-based approach is the clear preference for addressing systemic risk concerns.

c. Federal Reserve should finalize a rule under Section 170 excluding classes/types of nonbanks from potential SIFI designation.

As The Chamber noted in its August 2017 comment letter to Treasury, Congress empowered the Federal Reserve under section 170 of the Dodd-Frank Act, in consultation with FSOC, to exempt classes of companies from designation.[10] Congressional direction to the Federal Reserve is clear: "The Board of Governors shall promulgate regulations on behalf of, and in consultation with, the Council setting forth the criteria for exempting certain types or classes of U.S. nonbank

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[8] Quaadman, T. (2019, January 25). Public Consultation – Holistic Framework for Systemic Risk in the Insurance Sector [Letter to International Association of Insurance Commissioners]. Available at http://www.centerforcapitalmarkets.com/wp-content/uploads/2019/01/190125_Comments_InsuranceSystemicRisk_InsuranceSupervisors-FINAL-1.25.19.pdf?#

[9] NAIC Financial Stability (EX) Task Force, Macro Prudential Initiative (MP): A Proposed Framework (August 1, 2017), available at https://www.naic.org/documents/cmte_ex_financial_stability_tf_macro_prudential_initiatives.pdf?39

[10] Hirschman, D. T. (n.d.). Review of Financial Stability Oversight Council determination and designation processes pursuant to the Presidential Memorandum for the Secretary of the Treasury of April 21, 2017 [Letter written August 15, 2017 to U.S. Secretary of the Treasury, Steven T. Mnuchin]. Available at https://centerforcap.wpengine.com/wp-content/uploads/2017/08/CCMC-Comment-on-FSOC-SIFI-Designation-Process.pdf

financial companies or foreign nonbank financial companies from supervision by the Board of Governors."

Consistent with our recommendation that FSOC address systemic risk through its section 120 authority, we believe that regulated companies should be exempt from SIFI designation. The Treasury Department should recommend that the Federal Reserve use its authority under section 170 to exempt several classes of nonbank financial companies from supervision, including:

i. companies whose financial services businesses are already regulated (*i.e.*, holding company oversight is not required so long as the principal operating subsidiaries are regulated) and whose primary regulator does not consent to such designation;
ii. companies that do not exhibit all of the factors described in subsections (a) and (b) of section 113; and
iii. companies in a substitutable industry (*i.e.*, where designation of one entity will only lead to assets, customers and counterparties moving to another entity).

<u>Closing</u>

The Chamber shares the objective of the Financial Stability Oversight Council to address concerns with systemic risk. We support the Council's Proposed Guidance to formalize an activities-based approach as the preferred alternative to designation of nonbank financial companies as systemically important financial institutions. Additionally, we support the increased transparency and due-process reforms outlined by the Proposed Guidance. Thank you for taking our recommendations under consideration. The Chamber looks forward to the Council expeditiously finalizing the Proposed Guidance.

Sincerely,

Tom Quaadman