

Oral Statement on Financial Stability Oversight Council Nonbank Designations

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As prepared for delivery.

Thank you, Chairman Crapo, Ranking Member Brown, and members of the Committee for inviting me to testify today.

The registered funds that are ICI's members are major participants in US and global financial markets on behalf of more than 100 million American investors and millions more overseas. The stability of the financial system is a matter of utmost concern to the Institute and its members as we help our investors achieve their most important financial goals.

To that end, ICI was an early supporter of proposals to form a council of regulators to share information and coordinate their activities. We believe today that this convening authority can be FSOC's greatest strength.

Ten years after the financial crisis, the financial system is more robust and resilient. The time is right to review the effectiveness of post-crisis reforms and to make tailored adjustments.

In my remarks today, I will focus on four main points.

First, designation of a nonbank financial company as a SIFI—a "systemically important financial institution"—is a blunt regulatory tool that should be reserved for extraordinary circumstances. FSOC's primary goal should be to reduce systemic risk, and there can be more effective, less burdensome, or more expedient ways to do so. FSOC itself in 2014 decided that a review of products and activities would be the first step in considering potential risks in the asset management industry.

ICI welcomed this change in approach. We have long stressed that registered funds and fund advisers do not warrant designation as SIFIs. Thanks to their structure and regulation, registered funds simply do not pose risks to the financial system at large. Designation would bring bank-like regulation that would be ill-suited to funds or their managers and that would significantly harm fund investors.

More generally, designation of specific firms can create significant market distortions, including increased moral hazard and reduced competition and consumer choice. We believe there is and should be a very high bar for singling out individual companies as SIFIs.

My second point is that the SIFI designation process should be reformed to address widely recognized shortcomings. Officials from both the current and prior administrations have recognized the need to allow:

- Greater engagement with a company being considered for designation;
- A greater role for the company's primary financial regulator;

- More analytical rigor and attention to actual experience; and
- Greater transparency to markets and the public.

My third point is that policymakers are moving in the proper direction. The Treasury Department's November 2017 report on FSOC offered a series of constructive recommendations for the designation process. Just last week, FSOC itself proposed to implement these recommendations. FSOC has proposed "prioritizing" an activities-based approach to addressing systemic risk, while reserving SIFI designation as a last resort whenever necessary. We welcome FSOC's request for public comments on these proposed amendments to its guidance.

Despite these welcome developments, my fourth point is that Congress still must act to confirm in statute that SIFI designation is intended as a "tool of last resort" and should be used only in extraordinary circumstances. Four members of this Committee—Senators Rounds, Jones, Tillis, and Sinema—have introduced bipartisan legislation to achieve this goal.

S. 603, the "Financial Stability Oversight Council Improvement Act of 2019," would require the Council to consider whether other steps could mitigate any potential risks posed by a nonbank financial company before voting to designate that company. Those steps could include:

- a different action by FSOC;
- action by the company's primary regulator, including industry-wide regulation of products or activities; or
- de-risking action by the company itself.

This legislation would help ensure that the Council considers the full range of options available to mitigate risks and makes an informed decision—rather than simply reaching for the hammer of designation. The result would be an FSOC that is more effective in meeting its primary goal—reducing risks to the financial system.

ICI urges this Committee to consider S. 603 and report it favorably to the full Senate.

Thank you for your attention, and I will be happy to address your questions.