

**Views of Financial Stability Oversight Council Members  
Regarding Rescission of Determination Regarding  
American International Group, Inc. (AIG)**

*Note: Redactions of confidential information submitted to the Council by AIG or its regulators  
are indicated by “[•]”*

## View of Keith A. Noreika, Acting Comptroller of the Currency

I voted to rescind the Financial Stability Oversight Council's (FSOC) designation of American International Group, Inc. (AIG) as a nonbank systemically important financial institution (SIFI), joining the two-thirds majority decision.

The FSOC can play a critical role in identifying and communicating systemic risk to our financial system and in coordinating agencies' responses to these risks. The value of FSOC also continues to increase as a forum for discussing and analyzing emerging risk to the financial system. Separately, however, I feel it necessary to highlight my concerns with the FSOC's authority and ability to designate individual nonbank companies for bank-like regulation. I am concerned that by picking institutions from among similarly situated competitors within the same industry and labelling one systemically important and not the other, we may adversely affect the competitive environment in unfair and arbitrary ways. This effect often serves the most politically powerful and well-connected firms.

Banks are regulated differently than every other type of business in a free market economy because of the potential for runnable liabilities—that is, demand deposits. Banking regulation is prescriptive, intrusive, constraining, and expensive for regulated banking entities—and society at large—but generally felt necessary in a free economy to prevent systemic run risk that could transfer itself through the payment system and allow weakness at one institution to affect the financial system and U.S. economy as a whole.

Nonbank financial companies, including insurance companies, that do not issue demand deposits generally are not subject to bank-like regulation that would subject the company to the same scrutiny of its capital and liquidity requirements and commercial limitations because the heavy costs of such regulation are not outweighed by the risks of a systemic event thought to be prevented by such regulation.

The FSOC designation process was intended to fill a perceived gap by putting financial regulators in charge of looking at nonbank financial companies to determine if they present systemic risk to our financial system in a similar way that some banks do, and, if they do, to regulate them like banks through supervision by the Board of Governors of the Federal Reserve System.

This attempt to limit risks to the financial system and the U.S. economy has several fatal limitations.

First, the process has become politicized and invariably forces the Council to pick “winners and losers” from among firms in a competitive industry. Such a politicized process risks becoming an exercise in rent-seeking that stunts economic growth and redistributes wealth to the politically powerful and well-connected.

Second, because regulators' expertise does not convey omniscience, the Council's designation decisions, by necessity, focus on history rather than the present and future state of the company and its potential effect on our nation's financial system. Aside from the name, there is little

similarity between AIG today and the AIG of 2007. AIG has taken a number of steps to reduce the potential effects on other firms and markets if the company should experience significant distress. AIG has divested and wound down certain business lines, and its market share in certain key markets has decreased. In addition, the capital markets' exposures to AIG have decreased substantially since 2013, and exposures arising from the company's insurance products do not appear to contribute significantly to any adverse systemic impact. These actions have substantially reduced the risk of a threat to the financial stability of the United States by material financial distress at AIG. Still, those who dissent from the majority decision today would brand the company with a scarlet letter by designating it a SIFI because of its history.

Finally, the designation process lacks transparency, and its decision-making criteria are weak. In my view, these flaws make the process arbitrary and capricious. Too much discretion can, and often does, lead to outcomes that are economically sub-optimal and politically motivated as is demonstrated in this case by the months the Council spent debating the insatiable process concerns of the dissenting members who sought to scuttle today's de-designation of an institution that has long ceased posing any meaningful systemic threat to our financial system.

I applaud the step the Council is taking to act in a manner more consonant with the rule of law and the government's participation in a free society. I believe this Council has a valuable role to play in facilitating interagency identification and discussion of emerging and systemic risks, which will enhance the work of the member agencies as they regulate and supervise the entities within their remit. But, the idea of picking out companies among a competitive industry for increased scrutiny does not work, and it remains to be seen whether it may even have perverse effects on the market over time, including perpetuating the perception of a designated firm being too big to fail. It is good we are getting out of that line of business starting today.

## View of Richard Cordray, Director of the Bureau of Consumer Financial Protection

On September 29, 2017, the Financial Stability Oversight Council considered the issue of whether to rescind its prior determination to designate American International Group, Inc., widely known as AIG, as a systemically important financial institution. The original designation occurred on July 8, 2013, and the vote of the Council was unanimous. Under the Dodd-Frank Act, the significance of a designation is that it marked AIG for enhanced regulatory oversight by the Federal Reserve Board of Governors through direct supervision according to enhanced prudential standards. This represents one aspect of the crucial reforms that Congress very sensibly enacted in the wake of the financial crisis, in particular that a coordinated regulatory body was necessary to monitor and address risks to the financial system from the so-called “shadow banking” sector.

I was on the Council at the time that it designated AIG in 2013. In the analysis presented to the Council this year on the issue of rescinding that designation, I see nothing that changes my views. The meltdown of AIG – which showed itself in 2008 to be a complex and essentially unresolvable financial institution in need of a Federal bailout worth approximately \$180 billion – was a defining moment of the financial crisis. AIG did become smaller as a result of those tragic events, not because it did so on a planned or conscious basis, but simply because its business model blew up and, along with it, froze major chunks of the credit system and greatly damaged the American economy. It thus poses a very different situation from GE Capital, which the FSOC de-designated in 2016 after a deliberate and extensive process of shrinking and de-risking its financial operations. By 2013, when the Council designated AIG as a SIFI, it was smaller but still a highly complex international institution with substantial and interrelated exposures in financial channels. The Council’s decision seemed straightforward at that time.

I have reviewed the separate statements of the Director of the Federal Housing Finance Agency and the Chairman of the Federal Deposit Insurance Corporation about the decision by the FSOC to rescind its prior designation of AIG. I see no need to belabor the points they have made. I concur with the FDIC Chair’s statement as to why the first standard for designation continues to apply and agree that material financial distress at AIG not only could pose, but actually does continue to pose, a threat to the financial stability of the United States. In addition, I also concur with the FHFA Director’s statement for why the second standard is met (and though this standard was not explicitly addressed in the Council’s statement about the original 2013 designation, I and perhaps other of my colleagues held the same view at the time that decision was made). I thus agree that the nature, scope, scale, concentration, interconnectedness, or mix of activities at AIG could pose a threat to the financial stability of the United States. I also concur in the points made in the FHFA Director’s statement as to the procedural issues that surrounded the Council’s vote last week on de-designation, which occurred with the support of only six of the ten FSOC members, one of whom recused himself from the vote.

## View of Martin J. Gruenberg, Chairman of the Federal Deposit Insurance Corporation

The Financial Stability Oversight Council (FSOC) determined in 2013 that material financial distress at AIG could pose a threat to the financial stability of the United States under Section 113 of the Dodd-Frank Act, thereby subjecting AIG to supervision by the Federal Reserve Board and enhanced prudential standards.

The FSOC is required by the Dodd-Frank Act annually to review its determination in regard to AIG. In its reevaluation process, the FSOC considers whether there have been material changes with respect to AIG or the markets in which it operates since the FSOC's last reevaluation.

The FSOC reviewed the 2013 determination in 2014 and 2015 and concluded that there had not been sufficient material changes with respect to AIG and the markets in which it operates to rescind the determination. The FSOC has now undertaken the next review and reached a different conclusion. I respectfully dissent from that conclusion for the following reasons.

First, a core basis for the original determination in 2013 was that AIG had a large volume of liabilities subject to discretionary withdrawal – in other words, runnable. If the firm were in material financial distress, a large number of those liabilities could run within a short period of time, and the resulting asset liquidation to try to meet those obligations, occurring at a time of stress in financial markets, could pose a threat to U.S. financial stability. As concluded in the original determination, this asset liquidation could have disruptive effects on the broader financial markets and impair financial market functioning. That conclusion was unchanged following two subsequent reevaluations.

These issues remain the same today as they were in 2013. While there have been some reductions in certain exposures, there have been increases in others, most notably in the life insurance and annuity business. Nothing about the liquidity characteristics of AIG's liabilities and assets has changed to diminish the concerns originally raised by the FSOC.

In addition, several of the key assumptions used in the recent analysis to support a different determination for AIG deviate significantly from the approach taken by the FSOC in the original 2013 determination and the 2014 and 2015 annual reevaluations. Today's decision largely relies upon the experience of much smaller insurance company failures in moderate stress environments years ago to assess the potential impact of a failure of a company as large, interconnected, and internationally active as AIG today in a severe stress environment. Consequently, those limited experiences offer little useful guidance for run risk and liquidity risk assumptions for a firm of AIG's size and complexity.

Finally, neither AIG's overall reduction in size since 2013, nor its divestiture of non-material operations, including those in foreign jurisdictions, have affected in any substantial manner the resolution obstacles previously identified by the FSOC. The asset size of the firm has only declined marginally since 2013, and the percentage of its foreign revenue and foreign assets to that of the entire firm is roughly the same.

AIG remains a large, complex, highly interconnected global organization operating in multiple states and foreign jurisdictions with numerous internal interdependencies presenting significant challenges to its orderly resolution in the event of its material financial distress or failure.

In light of these considerations, I respectfully dissent.

## View of J. Christopher Giancarlo, Chairman of the Commodities Futures Trading Commission

As representative of the US Commodity Futures Trading Commission (“CFTC”) to the Financial Stability Oversight Council (“FSOC”), I have approached the question of the de-designation of AIG as a Systemically Important Financial Institution (“SIFI”) from the perspective of derivatives market regulation—the CFTC’s statutory jurisdiction and area of expertise.

Drawing upon recent swaps market data available to the CFTC and the Council’s written analysis for this reevaluation,<sup>1</sup> I have sought to answer two fundamental questions:

1. How is today’s AIG comparable to the company that was designated as a SIFI in 2013?
2. Had FSOC not designated AIG in 2013, would AIG meet the SIFI criteria today?

I start with the first question: How does AIG in 2017 compare to AIG in 2012, upon which the Council made its designation?

Since designation, AIG has significantly de-risked itself as derivatives counterparty. Its net derivatives liabilities have decreased by 50 percent from \$4 billion to \$2 billion. (Putting that \$2 billion in context, AIG’s net derivatives liability in 2007 was \$18 billion.)

Moreover, AIG’s securities lending liabilities have shrunk from: \$82 billion in 2007 to \$8.2 billion in 2012, and to \$2.4 billion in 2016.

AIG’s capital markets downsizing results from its winding down of AIG Financial Products. Before the financial crisis, that unit generated one-sixth of AIG’s operating income by underwriting financial market risk—something with which AIG had little experience and would prove to be woefully incompetent.<sup>2</sup>

Today, AIG Financial Products is immaterial to AIG’s overall assets, liabilities, and revenue.

Moreover, AIG no longer acts as a swaps dealer. It uses derivatives only in the course of its regulated insurance operations—the same way as do other insurance end-users to manage variable interest rates, foreign exchange rates, and equity portfolios.<sup>3</sup>

Also, unlike 2012 or years prior, most US swaps products now trade in US markets that feature central clearing, standardized margins, regulated execution and trade reporting under the Dodd-Frank Act.

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<sup>1</sup> Some of which data is not publically available.

<sup>2</sup> AIG Financial Products’ capital markets activities generated \$2.66 billion in operating income 2005 while the company as a whole reported \$15.2 billion in operating income. See AIG 2006 Annual Report.

<sup>3</sup> See FSOC, Annual Reevaluation of the Council’s Final Determination regarding American International Group, Inc. (AIG) under Section 113 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) (2016), p. 18-20.

As a result, AIG's remaining swaps trading activity takes place today in a regulatory environment that is markedly more robust than it was in 2012.

These changes have caused market participants to dramatically reduce credit default swap protection on AIG. The outstanding notional amount of single-name CDS with AIG as the reference entity has dropped from: \$70 billion in 2012 to \$9.4 billion in 2016 - a reduction of 87 percent. The dollar amount of that outstanding CDS protection has declined during that period from: \$38 billion to \$9 billion - a reduction of 75 percent.

This substantial reduction shows that AIG's debt-holders, derivatives counterparties, and market participants view the firm as a far less significant credit risk than it was at the time of designation.

Turning to the second question: Would AIG meet the criteria to be a SIFI today?

Section 113 of Dodd-Frank authorizes the FSOC to designate a firm if material distress at the company, or the nature, scope, size, scale, concentration, interconnectedness, or mix of the firm's activities poses a threat to financial stability.

Based on current data, AIG does not meet this threshold. AIG does not have systemically important ties to other large financial institutions: no GSIB has any combination of debt, credit lines, repo/securities lending, or net derivatives liabilities to AIG of more than [•] of their equity capital. In fact, [•] of equity capital exposed to AIG.<sup>4</sup>

AIG's assets standing behind its liabilities to its retail policyholders are ring-fenced at the subsidiary under state-based insurance regulation.

So, in conclusion, based on available data and in concurrence with the views expressed by Treasury Secretary Steven T. Mnuchin, Federal Reserve Chair Janet L. Yellen, National Credit Union Chairman J. Mark McWatters, Acting Comptroller Keith Noreika, Independent Member Roy Woodall, and the Council staff in its recommendation memo, I find:

1. That AIG today is not a comparable systemic risk to the financial system as the firm that was designated in 2013.
2. If AIG were considered for designation today, it would not meet FSOC's own criteria to be a SIFI.

Accordingly, I support de-designation of AIG as a SIFI.

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<sup>4</sup> See FSOC, Annual Reevaluation of the Council's Final Determination regarding American International Group, Inc. (AIG) under Section 113 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) (2016), p. 23.

## View of Melvin L. Watt, Director of the Federal Housing Finance Agency

For the reasons set forth below, I dissent from the majority's decision to rescind the Council's prior determination to designate AIG for supervision by the Federal Reserve Board of Governors and subject it to prudential standards.

Under Section 113 of the Dodd-Frank Act, the Council may determine that a nonbank financial company will be supervised by the Federal Reserve Board of Governors and be subject to prudential standards if it determines that:

1. Material financial distress at the nonbank financial company could pose a threat to the financial stability of the United States; or
2. The nature, scope, size, scale, concentration, interconnectedness, or mix of activities of the nonbank financial company could pose a threat to the financial stability of the United States.

The Council may subject a nonbank financial company to Board of Governors supervision and prudential standards if either of these two standards is met.

In the Council's initial evaluation of AIG in 2013, and in subsequent annual reevaluations, FSOC did not evaluate AIG on the second standard, independent of the first.<sup>5</sup> Instead, it incorporated an evaluation of the factors required to be considered under the second standard (nature, scope, size, etc.) into its evaluation under the first standard. These factors were appropriately considered as they are among the ten criteria statutorily required to be considered in designating AIG under the first standard. However, if the Council concludes that AIG no longer meets the criteria for designation under the first standard, in my view an independent review and determination under the second standard is now required before a decision can be appropriately made to rescind the designation.

In light of the above, I respectfully dissent from the decision to rescind AIG's designation because 1) no independent review and determination has been made by the Council under the second legal standard set out in Section 113 of Dodd-Frank, and 2) the Council's consideration of the second standard's criteria as factors under the first legal standard is not sufficiently robust to substitute as the required independent review and determination under the second standard.

A number of my concerns about the sufficiency of the Council's analysis of the criteria required to be considered under the second legal standard, and whether that analysis is defensible as an independent basis for rescission of AIG's designation, reflect themselves in specific language and shortcomings identified in the Council's decision. Several excerpts from the decision are illustrative.

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<sup>5</sup> The Council's initial determination explicitly stated as follows: "While the Council considered AIG's activities in evaluating AIG under the First Determination Standard, the Council did not consider whether the nature, scope, size, scale, concentration, interconnectedness, or mix of AIG's activities, absent material financial distress at AIG, could pose a threat to U.S. financial stability." Neither has an independent evaluation under the second standard been made in subsequent years.

The Council's decision states on page 68:

The [2013] Council Basis concluded that the complexity and interconnectedness of AIG, including its domestic and global operations, could increase the obstacles to the company's resolution. Although AIG now operates in fewer jurisdictions and there would be fewer regimes involved in a resolution should one be necessary, it continues to operate in over 80 countries and jurisdictions, in all 50 states, the District of Columbia, and the five U.S. territories. AIG's diverse business activities continue to fall under the authority of numerous state, federal, and non-U.S. regulators. As noted in the Council Basis, an insolvent parent would be resolved under the U.S. Bankruptcy Code, while the U.S. insurance companies would be resolved in state courts in the state of domicile; AIG's entities are domiciled in six states and Puerto Rico. Each state where AIG provides insurance operates a life insurance guaranty fund and at least one property and casualty guaranty fund to pay the outstanding claims of the insolvent insurer's policyholders. In addition, AIG's subsidiaries include broker-dealers and investment advisors that are regulated by the SEC. If necessary, AIG's broker-dealers and AIG Federal Savings Bank would be resolved under the Securities Investment Protection Act and the Federal Deposit Insurance Act, respectively. Further, 31 percent of AIG's operating revenues are derived from non-U.S. countries and are subject to unique bankruptcy regimes.

Cross-border efforts have begun that could help facilitate cooperation and coordination to address the complexity of AIG (such as a crisis management group with members from Japan, Singapore, and the United States and the insurance cross-border crisis management group set up by the Financial Stability Board). However, as the Council's decision confirms on page 69:

Despite these efforts, there is no global regulatory framework for the resolution of cross-border financial groups. Any resolution of AIG would continue to require accommodations with local supervisory authorities and cooperation among a number of home and host jurisdiction supervisory authorities and courts. Adverse effects resulting from any one country may affect AIG's liquidity and financial condition in another country. Ring-fencing or seizure could follow from an AIG failure. Some countries' legal requirements govern the constitution of technical reserves and may hinder repatriation of profits and assets. While AIG has reduced the number of non-U.S. jurisdictions it operates in, the lack of a global framework for resolution may represent an obstacle to AIG's rapid and orderly resolution.

The fact that efforts to address these concerns are still in flight confirms to me that rescinding the designation of AIG without further independent evaluation under the second legal standard is premature and unwise.

The Council's decision also confirms that AIG itself may be taking steps to reduce its level of complexity and make resolution easier if resolution became necessary. As stated on page 68:

In 2016, AIG established a new Swiss holding company, AIG International Holdings, GmbH, which is intended to be the ultimate holding company for all of AIG's non-U.S. entities. AIG is in the process of transferring its non-U.S. subsidiaries to this new entity and anticipates that this restructuring, once implemented, would simplify AIG's organizational structure and facilitate the optimization of its international capital strategy.

Again, however, this restructuring is still in flight and, as acknowledged in the Council's decision, "the impact of this restructuring cannot be assessed until it is completed."

The Council's decision on page 68 further confirms the following:

In the event of AIG's material financial distress, legal entities critical to the continuation of operations could lose access to internal sources of funding, thereby leading to the loss of liquidity and possibly either insolvency or seizure by a regulator. Capital maintenance agreements, inter-affiliate guarantees, intercompany reinsurance arrangements, and pooling mechanisms could still transmit stress to the holding company and among AIG affiliates in resolution.

While I do not take issue with the determination being made by the Council under the first standard set out in Section 113 of Dodd-Frank, the above findings, each of which is explicitly stated in the Council's decision, reaffirm my view that rescission of the designation of AIG is premature and unwise without making the legal assessment required under Section 113's second standard. Congress obviously intended for the second standard to be regarded as on equal legal footing with the first standard and understood that it would be possible for a company to be "too big to fail" even if it passed the test set out in the first standard and was not experiencing financial distress. The Council has also explicitly acknowledged this in its Regulations promulgated at 12 CFR Part 1310 and in its Guidance issued as Appendix A thereto. By failing to make an independent evaluation under the second legal standard, in my view the Council has failed to appropriately apply the law and, as well, has failed to follow its own Regulations.

I also object to the rescission on the basis that it did not receive the affirmative vote of two-thirds of the Council's voting members. By statute, the Council consists of ten voting members. For this determination on rescission, one of the ten voting members was recused because of a conflict of interest. In my view, by statute, seven of the ten voting members were required to vote in the affirmative to rescind the designation of AIG.<sup>6</sup> Instead, the Chairperson of the Council made a unilateral determination that the affirmative vote of only six of nine voting members was required to rescind and subjected his ruling to a vote that required only a majority to affirm. In my view, the Council's decision represents a simple majority decision, not the two-thirds required by statute. In addition to the above substantive dissent from this majority decision, I also object to rescission on this legal basis.

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<sup>6</sup> Votes to rescind, by statute and by FSOC Regulations "require the vote of not fewer than two-thirds of the voting members of the Council then serving, including the affirmative vote of the Chairperson of the Council." *See* Section 113(a) of Dodd-Frank and 12 C.F.R. § 1310.10(b)(2).

## View of J. Mark McWatters, Chairman of the National Credit Union Administration

I concur with the decision to rescind the designation of AIG as a Systemically Important Financial Institution, or SIFI.

My analysis of AIG began in 2009 when I served as a member of the TARP Congressional Oversight Panel. The TARP Panel was charged by Congress to report every 30 days on the implementation of the TARP program by the Department of Treasury. Our investigation of AIG yielded a 300-plus page report in which we concluded that AIG was mismanaged and engaged in inappropriately risky financial transactions. We concluded that AIG failed to prudently underwrite and appropriately price its substantial portfolio of credit default swaps and other derivative products. Payments due to the swap counter-parties were sufficient to guarantee that, if the company did not receive help, AIG would fail. That failure would have led to catastrophic consequences for the U.S. and world economies.

In reality, those consequences were mitigated by the \$183 billion bailout of the company funded by American taxpayers. In essence, Main Street bailed out Wall Street to help keep the entire U.S. economy afloat. Put bluntly: AIG was a basket case in late 2008, the proverbial poster child for ill-conceived business plans, internal control systems, and risk-management protocols.

In contrast, AIG is a different company today. As a commercial finance, M&A, and tax attorney with a CPA license, I have thoughtfully analyzed the financial statements and other public and non-public information submitted to Council members and staff. I have also reviewed the detailed analysis of AIG prepared by the Nonbanks Designation Committee and reviewed by the FSOC Deputies. I have also had an opportunity to reflect on the comments of my fellow Council members, and have paid particular attention to those who do not concur with the dedesignation of AIG.

Although I certainly appreciate that reasonable minds may differ, after consideration, I believe that AIG no longer presents a systemic risk to the U.S. economy. I note that AIG remains a complex international insurance company with an embedded financial institutions component, and so, AIG is certainly not free of risk. In my judgment, however, the additional regulatory burden of a continuing SIFI designation is neither necessary nor appropriate for AIG. Instead, we should acknowledge that the Council's original decision with respect to AIG has had its intended effect, and that AIG's traditional regulators may now supervise and oversee the safety and soundness risks presented by the company, without continued heightened concern that the company presents an undue risk to U.S. financial stability.

In reaching this conclusion, I note that AIG no longer holds an extensive portfolio of the derivative products that spawned the 2008 financial crisis and ensuing taxpayer bailout—the circumstances and events that were still fresh in the minds of regulators as the original SIFI designation analysis was being done. Today, AIG has a decidedly smaller financial footprint in the capital markets than it did at the time of designation. In turn, capital market participants are now less exposed to AIG. The company has reduced its total debt, short-term debt, derivatives transactions, securities lending volume and activity in the repurchase markets. In addition, AIG

has moved to simplify its corporate structure and reduce its financial market footprint by selling significant interests in the aircraft leasing and private mortgage insurance markets.

As some Council members have properly noted, and the basis document notes, AIG continues to hold significant exposure to annuity products. And some Council members have raised concerns that, if AIG were to experience material financial distress, policyholders would withdraw their funds quickly, resulting in a cascade of asset sales that would be destabilizing to the U.S. financial system.

The “fire sale” concerns with respect to AIG were appropriate for the time when they were first raised. However, FSOC has continued to dig more deeply and refine its previous analyses. The document developed by the staff takes a more nuanced—and likely more correct—view of the potential for fire sales and their likely effect on the markets in which AIG is currently operating. The analysis presented leads me to believe that risk from this possibility is substantially smaller than previously thought. Again, while I understand that reasonable minds may differ on this, I am not aware of any compelling evidence that AIG's internal control systems and risk-management protocols, as overseen by its traditional regulators, cannot manage the risks in these entirely traditional insurance products. As a result, I believe the risks to U.S. financial stability from this possibility are very remote.

I must also note that, since the original designation, there have also been developments in state and industry regulation that work to more clearly identify enterprise risk at AIG. This would appear to be a necessary step in further developing management and mitigation strategies that ultimately strengthen the company's resiliency.

I remain confident that AIG, if presented to this Council as, say, Company X, would not receive a SIFI designation today. We should not unduly burden AIG with the legacy of prior acts of mismanagement, ill-conceived business models, and profound negligence in assessing risk. Instead, I believe it is more appropriate to analyze AIG based upon the facts and circumstances presented today and reasonably anticipated in the future. From that perspective, and armed with the significant and detailed analysis of the staff, I believe it is in the public policy interest to rescind AIG's designation as a systemically important financial institution.

Separately, acting on the independent advice of my own counsel, I approved of the Council's determination that, under the Dodd-Frank Act, a Council member who is disqualified from participating in a particular matter—and therefore cannot participate in that matter—is not “then serving” on the Council with respect to that matter.

## View of S. Roy Woodall, Jr., the Independent Member Having Insurance Expertise

As the Council's Independent Member having insurance expertise, I concur with the Council's determination that the 2013 Final Designation of the American International Group, Inc. (AIG) under Section 113<sup>7</sup> of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) should be rescinded.

Section 113(a)(1) of the Dodd-Frank Act grants authority to the Council to "determine" if a nonbank financial company "could pose a threat to the financial stability of the United States" either because of (1) "material financial distress", or (2) "the nature, scope, size, scale, concentration, interconnectedness, or mix of... activities."<sup>8</sup>

Thus, these are the two standards which the Council may use to determine that an insurance company or any other nonbank financial institution should be designated as what is commonly referred to as a SIFI (Systemically Important Financial Institution) and be subject to prudential standards established by the Board of Governors of the Federal Reserve System.

The SIFI designation of AIG in 2013 was based upon the first determination standard: material financial distress that **could** make it a threat to financial stability, rather than on its activities alone.

It is well known that during the financial crisis AIG actually **did** experience material financial distress, played a causative role in the crisis, and received a Federal bailout. These realities unofficially buttressed the determination basis made by the Council and its resulting decision to designate AIG as a SIFI.

I believe that today's AIG is a different organization, approximately half the size it was at the time of the financial crisis and, therefore, no longer satisfies the first determination standard under which it was designated. I thus concur with those Council members who have voted to rescind AIG's SIFI determination pursuant to Sec. 113(d)(2)<sup>9</sup> of the Dodd-Frank Act.

However, I find both the Council's rescission document and the Council's Rule and Interpretive Guidance that annual reevaluations should focus on material changes since the previous review<sup>10</sup> to be somewhat confusing and possibly even inconsistent with the statutory test: to determine whether the company could pose a threat to the financial stability of the U.S. I do not believe today's AIG could pose such a threat.

I continue, however, to be concerned regarding some of AIG's activities that are discussed in the Council's rescission document, especially those relating to annuities with guaranteed features, as well as [•], especially in view of its overall regulatory scrutiny once it no longer is considered by the Council to be a SIFI. Although I do not personally believe these activities would justify

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<sup>7</sup> 12 U.S.C. § 5323

<sup>8</sup> 12 U.S.C. § 5323(a)

<sup>9</sup> 12 U.S.C. § 5323

<sup>10</sup> 12 C.F.R. part 1310

continuing to regulate AIG as a SIFI at this time (i.e., they do not satisfy the second statutory designation standard), I do believe they should continue to be monitored from a macro-prudential perspective.

Section 2(12)(D) of the Dodd-Frank Act<sup>11</sup> clearly states that State insurance regulators are recognized as the primary financial regulators “with respect to the insurance activities and activities that are incidental to such insurance activities of an insurance company that is subject to supervision by the State insurance authority under State insurance law.”

As pointed out in the Council’s rescission document, State regulators have indeed enhanced their regulatory capabilities since the financial crisis and since the Council’s 2013 designation of AIG. These improvements include steps such as the Solvency Modernization Initiative of the National Association of Insurance Commissioners (NAIC), the evolution of supervisory colleges, and the introduction of new regulatory reporting requirements such as the Enterprise Risk Report and the Own Risk and Solvency Assessment.

However, in my opinion, the most promising regulatory development with a financial stability impact is the NAIC’s recently announced Macro-Prudential Project, which is being designed to enhance the regulation of insurer liquidity risk by monitoring the liquidity characteristics of insurers’ liabilities, conducting liquidity stress testing, and evaluating liquidity risk management processes.

In my view, it is incumbent upon the Council to closely monitor these State regulatory developments pursuant to Section 112(a)(2)(D) of Dodd-Frank,<sup>12</sup> especially those related to liquidity risk. The Council should also consider using its considerable authority under Section 120<sup>13</sup> of the Dodd-Frank Act to make recommendations to State insurance regulators as to possible heightened standards, as it did in the case with asset managers, in order to regulate systemic risk of insurers on a consolidated basis more effectively. Such recommendations should be the result of a continuing dialogue between State insurance regulators and the members of the Council.

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<sup>11</sup> 12 U.S.C. § 5301

<sup>12</sup> 12 U.S.C. § 5322

<sup>13</sup> 12 U.S.C. § 5330