

Securities Regulation Daily Wrap Up, RISK MANAGEMENT—House committee slams FSOC’s lack of transparency, (Dec. 8, 2015)

[Click to open document in a browser](#)

By Jacquelyn Lumb

Three dozen House Financial Services Committee members grilled Financial Stability Oversight Council (FSOC) members for nearly four hours on a range of issues during an oversight hearing convened by Chair Jeb Hensarling (R-Tex). Hensarling characterized FSOC as one of the most powerful federal entities and also one of the least transparent. He said that oversight and reform of FSOC is paramount. The full committee questioned eight of the 10 voting members of FSOC, including SEC Chair Mary Jo White. Hensarling noted that Treasury Secretary Jack Lew testified before the committee in June when he presented FSOC’s annual report to the committee. This hearing provided an opportunity to hear from the other voting members. Federal Reserve Chair Janet Yellen did not testify at the hearing, having declined the invitation to appear.

Lack of transparency. In opening remarks, Hensarling said that FSOC, which was created by the Dodd-Frank Act, has received bipartisan criticism for its lack of transparency. Two-thirds of its meetings have been conducted in private and the minutes of the meetings do not contain any substantive information. Among FSOC’s activities, Hensarling said nothing is more controversial than its designation of non-bank financial institutions as systemically important financial institutions, known as SIFIs.

FSOC is also charged with identifying emerging threats to financial stability, but Hensarling said it refuses to include its own actions such as the Fed’s loose monetary policy, the Dodd-Frank Act’s Volcker rule, and other regulations that have led to a decrease in liquidity.

Hensarling noted that only one member of FSOC has expertise in the insurance industry and his was the lone dissenting vote when FSOC designated MetLife as a SIFI. MetLife has challenged its designation so FSOC members would not discuss the process leading up to its SIFI designation, but Debbie Matz, chair of the National Credit Union Association, told the committee that when considering large insurance companies, FSOC does not focus on the insurance part of the business but on their financial services.

White noted in her prepared statement that as one of two capital markets regulators on the Council, the perspective she and the staff bring is essential. The SEC’s engagement ensures that its relevant expertise is brought to bear on the issues before FSOC.

FSOC meetings. Rep. Scott Garrett (R-NJ) questioned why commissioners other than the chairs of the SEC and the CFTC are not allowed to attend FSOC meetings. He noted that 20 guests were invited to one meeting, but no commissioners may attend. White said that FSOC was structured to provide only for the chairs and one staff person to attend the meetings. She expressed a willingness to discuss with other FSOC members whether to open the meetings to include commissioners, but assured the committee that she keeps her fellow commissioners informed of all FSOC issues.

Lack of response. Rep. Sean Duffy (R-Wis) asked why FSOC has not been more forthcoming to members’ requests for information. He said that Lew provided only partial responses to his requests for 13 pieces of information. If the committee can get briefings about terrorist attacks, he questioned why it can’t get briefings from FSOC about the analysis that goes into a SIFI designation.

Asset managers under review. Another line of questioning involved FSOC’s consideration of whether certain asset managers should be designated as SIFIs based on their activities. Rep. Bruce Poliquin (R-Me) said the review suggests that FSOC does not believe that the SEC is providing adequate oversight, a role that it has held for 75 years. Matz said the SEC’s mandate is not to look at the financial stability of the U.S. Its focus is on the securities markets.

A number of committee members have introduced or plan to introduce legislation to reform FSOC, including Reps. Tom Emmer (R-Minn), Robert Pittenger (R-SC) and Luke Messer (R-Ind).

Cyber security. With respect to emerging risks, FSOC has identified cybersecurity as one of the greatest, which is outlined in its annual report to Congress. White said one cannot underestimate the risks posed by cyber attacks, which is why it is mentioned first in FSOC's latest annual report.

LegislativeActivity: RiskManagement DoddFrankAct SECNewsSpeeches