

117TH CONGRESS  
2D SESSION

# H. R. \_\_\_\_\_

To strengthen the Financial Stability Oversight Council, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

M. \_\_\_\_\_ introduced the following bill; which was referred to the Committee on \_\_\_\_\_

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# A BILL

To strengthen the Financial Stability Oversight Council, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Systemic Risk Mitiga-  
5 tion Act of 2022”.

6 **SEC. 2. MEMBER AGENCY FINANCIAL STABILITY MANDATE.**

7 (a) IN GENERAL.—Subtitle A of the Financial Sta-  
8 bility Act of 2010 (12 U.S.C. 5321 et seq.) is amended  
9 by adding at the end the following:

1 **“SEC. 124. MEMBER AGENCY FINANCIAL STABILITY MAN-**  
2 **DATE.**

3 “Each member agency shall have, as part of the  
4 agency’s mission, a mandate to ensure the financial sta-  
5 bility of the United States.”.

6 (b) CLERICAL AMENDMENT.—The table of contents  
7 for the Dodd-Frank Wall Street Reform and Consumer  
8 Protection Act is amended by inserting after the item re-  
9 lating to section 123 the following:

“Sec. 124. Member agency financial stability mandate.”.

10 **SEC. 3. AUTOMATIC DESIGNATION OF CERTAIN LARGE**  
11 **NONBANK FINANCIAL COMPANIES.**

12 (a) IN GENERAL.—The Financial Stability Act of  
13 2010 (12 U.S.C. 5311 et seq.) is amended by inserting  
14 after section 113 the following:

15 **“SEC. 113A. AUTOMATIC DESIGNATION OF CERTAIN LARGE**  
16 **NONBANK FINANCIAL COMPANIES.**

17 “(a) NOTICE OF AUTOMATIC DESIGNATION.—If a  
18 nonbank financial company meets the criteria described in  
19 subsection (b), the Council shall notify such nonbank fi-  
20 nancial company that if, on the date that is 9 months after  
21 the date on which the notice is sent, such nonbank finan-  
22 cial company meets the criteria described in subsection  
23 (b), such nonbank financial company shall be deemed to  
24 be designated as systemically important.

25 “(b) CRITERIA.—

1           “(1) IN GENERAL.—A nonbank financial com-  
2           pany meets the criteria described in this subsection  
3           if such nonbank financial company satisfies—

4                   “(A) the asset criteria in paragraph (2)  
5                   and the other criteria in paragraph (3); or

6                   “(B) the criteria for an investment adviser  
7                   that is registered with the Commission under  
8                   the Investment Advisers Act of 1940 in para-  
9                   graph (4).

10           “(2) ASSET CRITERIA.—A nonbank financial  
11           company satisfies the asset criteria in this para-  
12           graph if such nonbank financial company has—

13                   “(A) in the case of a company that would  
14                   be an investment company (as defined in the  
15                   Investment Company Act of 1940) but for sec-  
16                   tion 3(c)(1) or 3(c)(7) of that Act,  
17                   \$400,000,000,000 or more in gross notional ex-  
18                   posure (as defined in Form PF) individually or  
19                   in combination with any feeder funds, parallel  
20                   funds, or dependent parallel managed accounts  
21                   of the company; or

22                   “(B) in the case of any nonbank financial  
23                   company not described under subparagraph (A)  
24                   or paragraph (4), \$50,000,000,000 or more in  
25                   consolidated assets.

1           “(3) OTHER CRITERIA.—A nonbank financial  
2           company satisfies the criteria in this paragraph if  
3           such nonbank financial company has—

4                   “(A) \$30,000,000,000 or more in gross no-  
5                   tional credit default swaps outstanding for  
6                   which the nonbank financial company is the ref-  
7                   erence entity;

8                   “(B) \$3,500,000,000 or more of deriva-  
9                   tives liabilities;

10                   “(C) \$20,000,000,000 or more in total  
11                   debt outstanding;

12                   “(D) a 15–1, or higher, leverage ratio; or

13                   “(E) a 10 percent, or higher, short-term  
14                   debt ratio.

15           “(4) INVESTMENT ADVISER CRITERIA.—With  
16           respect to an investment adviser that is registered  
17           with the Commission under the Investment Advisers  
18           Act of 1940, the criteria in this paragraph is that  
19           the investment adviser has more than  
20           \$1,500,000,000,000 in assets under management.

21           “(c) RESCISSION OF DESIGNATION.—

22                   “(1) IN GENERAL.—With respect to a nonbank  
23                   financial company designated as systemically impor-  
24                   tant under subsection (a), if the Council determines  
25                   that neither material financial distress at the

1 nonbank financial company, nor the nature, scope,  
2 size, scale, concentration, interconnectedness, or mix  
3 of the activities of the nonbank financial company,  
4 could pose a threat to the financial stability of the  
5 United States, the Council may rescind such des-  
6 ignation (in this subsection referred to as a ‘rescis-  
7 sion determination’) for a period of 2 years.

8 “(2) AUTHORITY TO RENEW RESCISSION.—The  
9 Council may renew a rescission determination made  
10 under paragraph (1) for an unlimited number of ad-  
11 ditional 2-year periods, if the Council makes a new  
12 determination that the nonbank financial company  
13 meets the criteria described under paragraph (1) at  
14 the beginning of each such renewal.

15 “(3) AUTHORITY TO REVIEW RESCISSION.—The  
16 Chairperson may review the status of a nonbank fi-  
17 nancial company with respect to a rescission deter-  
18 mination before the end of a 2-year period described  
19 under paragraph (1) or (2) for any reason. The  
20 Chairperson shall notify the members of the Council  
21 of such review and shall call a vote to renew the re-  
22 scission determination within 7 days of such notifi-  
23 cation. If the Council fails to renew the rescission  
24 determination, the nonbank financial company shall

1 be deemed once again to be designated as system-  
2 ically important.

3 “(d) AUTOMATIC RESCISSION OF DESIGNATION.—If  
4 a nonbank financial company does not meet the criteria  
5 described in subsection (b) for 9 consecutive months, the  
6 Council shall immediately, and automatically rescind the  
7 designation of the nonbank financial company as system-  
8 ically important.

9 “(e) APPLICATION.—For purposes of this section, the  
10 term ‘nonbank financial company’ does not include a Gov-  
11 ernment-sponsored enterprise or an investment company  
12 registered with the Commission under the Investment  
13 Company Act of 1940.

14 “(f) DEFINITION.—In this section and with respect  
15 to a nonbank financial company, the term ‘designated as  
16 systemically important’ means the nonbank financial com-  
17 pany is subject to a determination under section 113 that  
18 the nonbank financial company shall be supervised by the  
19 Board of Governors and shall be subject to prudential  
20 standards, in accordance with this title.”.

21 (b) CLERICAL AMENDMENT.—The table of contents  
22 for the Dodd-Frank Wall Street Reform and Consumer  
23 Protection Act is amended by inserting after the item re-  
24 lating to section 113 the following:

“Sec. 113A. Automatic designation of certain large nonbank financial compa-  
nies.”.

1 (c) EFFECTIVE DATE.—This section and the amend-  
2 ments made by this section shall take effect not later than  
3 9 months after the date of the enactment of this Act.

4 **SEC. 4. COUNCIL REGULATION OF SYSTEMICALLY RISKY**  
5 **ACTIVITIES.**

6 (a) IN GENERAL.—Subtitle A of the Financial Sta-  
7 bility Act of 2010 (12 U.S.C. 5321 et seq.), as amended  
8 by section 2, is further amended by adding at the end the  
9 following:

10 **“SEC. 125. COUNCIL REGULATION OF SYSTEMICALLY RISKY**  
11 **ACTIVITIES.**

12 “(a) AUTHORITY OF THE COUNCIL.—Subject to sub-  
13 section (b), the Council shall issue such rules as may be  
14 required to regulate an activity or practice if the Council  
15 determines that the conduct, scope, nature, size, scale,  
16 concentration, or interconnectedness of such activity or  
17 practice could create or increase the risk of significant li-  
18 quidity, credit, or other problems spreading among bank  
19 holding companies and nonbank financial companies, fi-  
20 nancial markets of the United States, or low-income, mi-  
21 nority, or under-served communities.

22 “(b) COUNCIL DELEGATION TO THE PRIMARY REGU-  
23 LATOR.—With respect to an activity or practice that the  
24 council determines meets the standard outlined in sub-  
25 section (a)—

1           “(1) the Council shall issue recommendations to  
2           the primary regulator for a rulemaking to address  
3           the risk posed by the activity, and provide the pri-  
4           mary regulator with a 12-month period to issue a  
5           final rule to address such risk; and

6           “(2) if the primary regulator does not issue  
7           such a final rule within the period described under  
8           paragraph (1) or the Council determines that such  
9           final rule is insufficient to address the risk, the  
10          Council may—

11                  “(A) terminate such final rule, if applica-  
12                  ble; and

13                  “(B) issue a rule to address the risk.

14          “(c) BACKUP AUTHORITY OF THE COUNCIL FOR  
15          MEMBER AGENCY RULEMAKINGS.—With respect to any  
16          rulemaking required of a member agency by Federal stat-  
17          ute, if the member agency does not issue the rule within  
18          the time frame required by such Federal statute, the  
19          Council may issue such rule in place of the member agen-  
20          cy.

21          “(d) PRIMARY REGULATOR DEFINED.—With respect  
22          to an activity, the term ‘primary regulator’ means—

23                  “(1) one or more member agencies that the  
24                  Council determines are primarily responsible for reg-  
25                  ulating the activity; or

1           “(2) if the Council cannot make a determina-  
2           tion under paragraph (1), the member agency that  
3           the Council determines is the best choice to serve as  
4           the primary regulator with respect to such activity.”.

5           (b) CLERICAL AMENDMENT.—The table of contents  
6           for the Dodd-Frank Wall Street Reform and Consumer  
7           Protection Act, as amended by section 2, is further  
8           amended by inserting after the item relating to section  
9           124 the following:

          “Sec. 125. Council regulation of systemically risky activities.”.

10 **SEC. 5. MINIMUM STAFFING AND FUNDING LEVELS FOR**  
11                               **THE COUNCIL AND THE OFFICE OF FINAN-**  
12                               **CIAL RESEARCH.**

13           (a) IN GENERAL.—The Financial Stability Act of  
14           2010 (12 U.S.C. 5311 et seq.) is amended—

15                       (1) in section 118—

16                               (A) in the section heading, by adding  
17                               “**AND STAFFING**” at the end;

18                               (B) by striking “Any expenses” and insert-  
19                               ing the following:

20                               “(a) **EXPENSES.**—Any expenses”;

21                               (C) by inserting after “Office of Financial  
22                               Research.” the following: “The Office of Finan-  
23                               cial Research shall transfer a minimum of  
24                               \$18,000,000 to the Council each year (adjusted  
25                               for inflation) to pay for the costs of the Council

1 in carrying out the duties and responsibilities of  
2 the Council.”; and

3 (D) by adding at the end the following:

4 “(b) MINIMUM STAFFING LEVELS.—The Council  
5 shall maintain a minimum staff of 75 employees.”;

6 (2) in section 152—

7 (A) in subsection (c), by striking “, in con-  
8 sultation with the Chairperson,”; and

9 (B) in subsection (d)(1)—

10 (i) by striking “, in consultation with  
11 the Chairperson,”; and

12 (ii) by inserting before the period at  
13 the end the following: “, except that the  
14 Office shall maintain a minimum staff of  
15 300 employees”;

16 (3) in section 153(b)—

17 (A) in paragraph (2), by striking “and” at  
18 the end;

19 (B) in paragraph (3), by striking the pe-  
20 riod on the end and inserting “; and”;

21 (C) by adding at the end the following:

22 “(4) require any member agency to produce  
23 such data and other information as the Director  
24 may determine necessary to carry out the duties of  
25 the Office.”; and

1 (4) in section 155(d)—

2 (A) by striking “the Secretary” and insert-  
3 ing “the Office”; and

4 (B) by adding at the end the following:  
5 “The aggregate amount of assessments under  
6 this subsection with respect to a calendar year  
7 shall not be less than \$168,000,000 (adjusted  
8 for inflation).”.

9 (b) CLERICAL AMENDMENT.—The table of contents  
10 for the Dodd-Frank Wall Street Reform and Consumer  
11 Protection Act is amended in the item relating to section  
12 118 by adding at the end the following: “and staffing”.

13 **SEC. 6. TRANSPARENCY IN OPERATIONS OF THE FINAN-**  
14 **CIAL STABILITY OVERSIGHT COUNCIL.**

15 (a) MEETINGS.—Section 111(e) of the Financial Sta-  
16 bility Act of 2010 (12 U.S.C. 5321(e)) is amended—

17 (1) in paragraph (1), by striking “not less fre-  
18 quently than quarterly.” and inserting “not less fre-  
19 quently than twice each quarter. At least 1 of such  
20 quarterly meetings shall be open to the public.”; and

21 (2) by adding at the end the following:

22 “(3) TRANSCRIPTS.—The Council shall publicly  
23 release transcripts of meetings held pursuant to  
24 paragraph (1) not later than 5 years after the date  
25 of such meeting.”.

1 (b) TESTIMONY.—Section 112(c) of the Financial  
2 Stability Act of 2010 (12 U.S.C. 5322(c)) is amended—

3 (1) in the subsection heading, by striking “BY  
4 THE CHAIRPERSON”; and

5 (2) by inserting “and each voting member of  
6 the Council” after “The Chairperson”.

7 (c) MEMBER AGENCY STATEMENTS.—Section 112 of  
8 the Financial Stability Act of 2010 (12 U.S.C. 5322) is  
9 amended by adding at the end the following:

10 “(e) MEMBER AGENCY STATEMENTS.—After pro-  
11 viding testimony pursuant to subsection (c), the head of  
12 each member agency shall submit to Congress a signed  
13 statement—

14 “(1) affirming that the member agency is tak-  
15 ing all reasonable steps to ensure financial stability  
16 and to mitigate systemic risk that would negatively  
17 affect the economy; or

18 “(2) detailing additional steps that the member  
19 agency should take to ensure financial stability and  
20 to mitigate systemic risk that would negatively affect  
21 the economy.”.

22 **SEC. 7. CLIMATE CHANGE SUBCOMMITTEE.**

23 (a) IN GENERAL.—Subtitle A of the Financial Sta-  
24 bility Act of 2010 (12 U.S.C. 5321 et seq.), as amended

1 by section 4, is further amended by adding at the end the  
2 following:

3 **“SEC. 126. CLIMATE CHANGE SUBCOMMITTEE.**

4 “(a) IN GENERAL.—The Council shall establish a  
5 subcommittee of the Council that shall support the Council  
6 in identifying risks to, and in responding to emerging  
7 threats to, the stability of the United States financial sys-  
8 tem as a result of climate change.

9 “(b) RESPONSIBILITIES.—

10 “(1) SUBCOMMITTEE.—The subcommittee es-  
11 tablished under subsection (a) shall, not later than  
12 1 year after the date of enactment of this section,  
13 and in consultation with the Office of Financial Re-  
14 search, submit to Congress an assessment of the risk  
15 posed by climate change to the efficiency, competi-  
16 tiveness, and stability of the United States financial  
17 system as a whole.

18 “(2) COUNCIL.—For each year after the year in  
19 which the assessment required under paragraph (1)  
20 is submitted, the Financial Stability Oversight Coun-  
21 cil shall include in the annual report required under  
22 section 112(a)(2)(N) an update to that assessment.

23 “(c) COMPOSITION.—The subcommittee established  
24 under subsection (a) shall be composed of—

1           “(1) the Chairman of the Board of Governors  
2 of the Federal Reserve System;

3           “(2) the Secretary of the Treasury;

4           “(3) the Comptroller of the Currency;

5           “(4) the Chairperson of the Board of Directors  
6 of the Federal Deposit Insurance Corporation;

7           “(5) the Chairman of the Securities and Ex-  
8 change Commission;

9           “(6) the Chairperson of the Commodity Fu-  
10 tures Trading Commission; and

11           “(7) any other voting or nonvoting members  
12 that the Council determines to be appropriate.”.

13       (b) CLERICAL AMENDMENT.—The table of contents  
14 for the Dodd-Frank Wall Street Reform and Consumer  
15 Protection Act, as amended by section 4, is further  
16 amended by inserting after the item relating to section  
17 125 the following:

“Sec. 126. Climate change subcommittee.”.