



## Testimony

Before the Subcommittee on Oversight  
and Investigations, Committee on  
Financial Services, House of  
Representatives

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For Release on Delivery  
Expected at 10:30 a.m. ET  
Wednesday, September 17, 2014

# FINANCIAL STABILITY OVERSIGHT COUNCIL

## Status of Efforts to Improve Transparency, Accountability, and Collaboration

Statement of A. Nicole Clowers, Director,  
Financial Markets and Community Investment Team

# GAO Highlights

Highlights of [GAO-14-873T](#), a testimony before the Subcommittee on Oversight and Investigations, Committee on Financial Services, House of Representatives

## Why GAO Did This Study

The 2007-2009 financial crisis focused attention on weaknesses in the U.S. regulatory structure, including the lack of an agency or mechanism responsible for monitoring and addressing risks across the financial system. To address this weakness, the Dodd-Frank Wall Street Reform and Consumer Protection Act created FSOC to identify and address threats to financial stability. Among other statutorily defined authorities, FSOC may designate nonbank financial companies for heightened supervision by the Board of Governors of the Federal Reserve System. FSOC consists of 10 voting members and 5 nonvoting members. The 10 voting members include 9 federal regulators and an independent insurance expert.

In September 2012, GAO issued a report on FSOC's challenges, efforts to establish management mechanisms, activities for supporting collaboration among its members and external stakeholders, and processes for issuing reports and rules. GAO made nine recommendations to FSOC to improve the transparency and accountability of its decisionmaking, among other things.

This testimony is based on GAO's September 2012 report ([GAO-12-886](#)). It discusses FSOC's efforts to respond to GAO's 2012 recommendations. From June through September 2014, GAO obtained updated information from FSOC staff and reviewed documents related to GAO's recommendations.

View [GAO-14-873T](#). For more information, contact A. Nicole Clowers at (202) 512-8678 or [clowersa@gao.gov](mailto:clowersa@gao.gov).

September 17, 2014

## FINANCIAL STABILITY OVERSIGHT COUNCIL

### Status of Efforts to Improve Transparency, Accountability, and Collaboration

## What GAO Found

The Financial Stability Oversight Council's (FSOC) has taken steps to address some of GAO's September 2012 recommendations, but additional efforts are needed. GAO made nine recommendations to FSOC in three areas: emerging threats and risks identification, transparency and accountability, and collaboration and coordination. GAO recommended, among other things, that FSOC:

- develop a systematic approach that includes collecting and sharing key financial risk indicators to help identify potential threats to financial stability;
- develop a strategy to improve communications with the public;
- keep detailed records of closed-door sessions;
- create a framework for assessing the impact of its decisions to designate nonbanks for enhanced supervision;
- develop policies to clarify when collaboration or coordination should occur;
- adopt leading practices, such as joint strategies, for collaboration; and
- clarify roles and responsibilities for monitoring threats to the financial system.

FSOC still lacks a comprehensive, systematic approach to identify emerging threats to financial stability. In 2012, GAO reported that FSOC's approach might not help identify new risks or threats that member agencies had not already identified. The Office of Financial Research (OFR) has made some progress in developing data tools to support FSOC since the 2012 report, but GAO's observations of two of these tools suggest that one tool does not focus on risks to the financial system, while another remains in a prototype phase.

FSOC has taken steps to improve its communication with the public but could do more to improve transparency and accountability. In May 2014, FSOC approved a revised transparency policy, and FSOC staff said they had attempted to provide more information in the minutes of meetings. But FSOC staff said that they did not intend to keep detailed minutes because of the confidential information discussed. Also, FSOC staff also said that the impact of designating nonbanks for enhanced supervision would be assessed as part of a mandated January 2016 study. However, FSOC has not begun to prepare for this study. GAO has reported on the importance of advance planning for retrospective studies so that needed data are collected.

FSOC has taken steps to improve collaboration and coordination among member agencies but does not plan to act on some of GAO's recommendations on coordination. In May 2014, FSOC approved one formal mechanism that supported coordination—bylaws for the Deputies Committee of senior officials from member agencies that describe its role in coordinating FSOC activities. FSOC staff said they did not plan to clarify the roles and responsibilities of FSOC, OFR, and member agencies because the overlapping responsibilities for monitoring systemic risk had not been problematic. Officials also said that FSOC would not adopt practices to coordinate rulemaking across member agencies, as it does not have the authority to direct independent agencies. GAO maintains that action is needed as its past work has shown that the lack of clear roles and coordination can lead to duplication, confusion, and regulatory gaps.

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Chairman McHenry, Ranking Member Green, and Members of the Subcommittee:

Thank you for the opportunity to be here today to discuss the Financial Stability Oversight Council (FSOC). As you know, the 2007-2009 financial crisis focused attention on weaknesses in the U.S. regulatory structure, including the lack of an agency or mechanism responsible for monitoring and addressing risks across the financial system and a shortage of timely information to facilitate that oversight. In response to the crisis, in 2010 Congress passed the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act), which provided for a broad range of regulatory reforms.<sup>1</sup> Among other things, the act established FSOC to monitor the stability of the U.S. financial system and take actions to mitigate risks that might destabilize the system.<sup>2</sup> The Dodd-Frank Act also created the Office of Financial Research (OFR), in part, to support FSOC by providing financial research and data.<sup>3</sup> Congress gave FSOC a number of significant authorities to help it execute its broad mission, including designating nonbank financial companies for heightened supervision by the Board of Governors of the Federal Reserve System (Federal Reserve).

My remarks are based on our September 2012 report on FSOC and OFR and updates conducted from June through September 2014.<sup>4</sup> Specifically, in our 2012 report we reviewed FSOC's challenges in achieving its mission, efforts to establish management mechanisms, activities for supporting collaboration among their members and external stakeholders, and its processes for issuing reports and rules and made nine recommendations to FSOC for improving its ability to identify systemic risk and emerging threats, its transparency and accountability, and

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<sup>1</sup>Pub. L. No. 111-203, 124 Stat. 1376 (2010).

<sup>2</sup>The provisions of the Dodd-Frank Act dealing with FSOC are contained primarily in subtitle A of title I, §§ 111-123, codified at 12 U.S.C. §§ 5321-5333, and title VIII, codified at 12 U.S.C. §§ 5461-5472.

<sup>3</sup>The provisions dealing with OFR are contained primarily in subtitle B of title I, §§ 151-156, codified at 12 U.S.C. §§ 5341-5346.

<sup>4</sup>GAO, *Financial Stability: New Council and Research Office Should Strengthen the Accountability and Transparency of Their Decisions*, [GAO-12-886](#) (Washington D.C.: Sept. 11, 2012).

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collaboration and coordination across members and member agencies.<sup>5</sup> In my comments today, I will discuss FSOC's progress in addressing these recommendations.

For our September 2012 report, we reviewed our earlier reports on financial reform and the 2007-2009 financial crisis, statements by government officials and academic experts, and agency documents, including information on budgeting, staffing, and planning. We evaluated FSOC's management mechanisms using criteria from *Standards for Internal Control in the Federal Government* and our past work on establishing federal entities.<sup>6</sup> We analyzed FSOC policies, procedures, and products to determine whether and how their collaboration practices compared with key elements of effective collaboration that we had previously identified and to identify FSOC's processes for issuing products.<sup>7</sup> We also interviewed FSOC and OFR staff; officials from FSOC's member agencies; and external stakeholders, including foreign officials, industry trade groups, and academics. More details on our scope and methodology are included in the September 2012 report. We previously testified on our 2012 report in March 2013.<sup>8</sup> To obtain updates on the progress FSOC had made in implementing our recommendations, we interviewed FSOC staff and reviewed relevant documents, such as the 2014 annual report. The work on which this statement is based was conducted in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for

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<sup>5</sup>In addition to these nine recommendations, we also recommended that OFR build on its strategic framework by further developing its strategic planning and performance management system to link its activities to goals and use publicly available performance measures to measure progress.

<sup>6</sup>GAO, *Internal Control: Standards for Internal Control in the Federal Government*, [GAO/AIMD-00-21.3.1](#) (Washington, D.C.: November 1999); and *Internal Control Standards: Internal Control Management and Evaluation Tool*, [GAO-01-1008G](#) (Washington, D.C.: August 2001) and GAO, *Millennium Challenge Corporation: Progress Made on Key Challenges in First Year of Operations*, [GAO-05-625T](#) (Washington, D.C.: Apr. 27, 2005) and *Troubled Asset Relief Program: Additional Actions Needed to Better Ensure Integrity, Accountability, and Transparency*, [GAO-09-161](#) (Washington, D.C.: Dec. 2, 2008).

<sup>7</sup>GAO, *Results-Oriented Government: Practices That Can Help Enhance and Sustain Collaboration among Federal Agencies*, [GAO-06-15](#) (Washington, D.C.: Oct. 21, 2005).

<sup>8</sup>GAO, *Financial Stability: Continued Actions Needed to Strengthen New Council and Research Office*, [GAO-13-467T](#) (Washington, D.C.: March 14, 2013).

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our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

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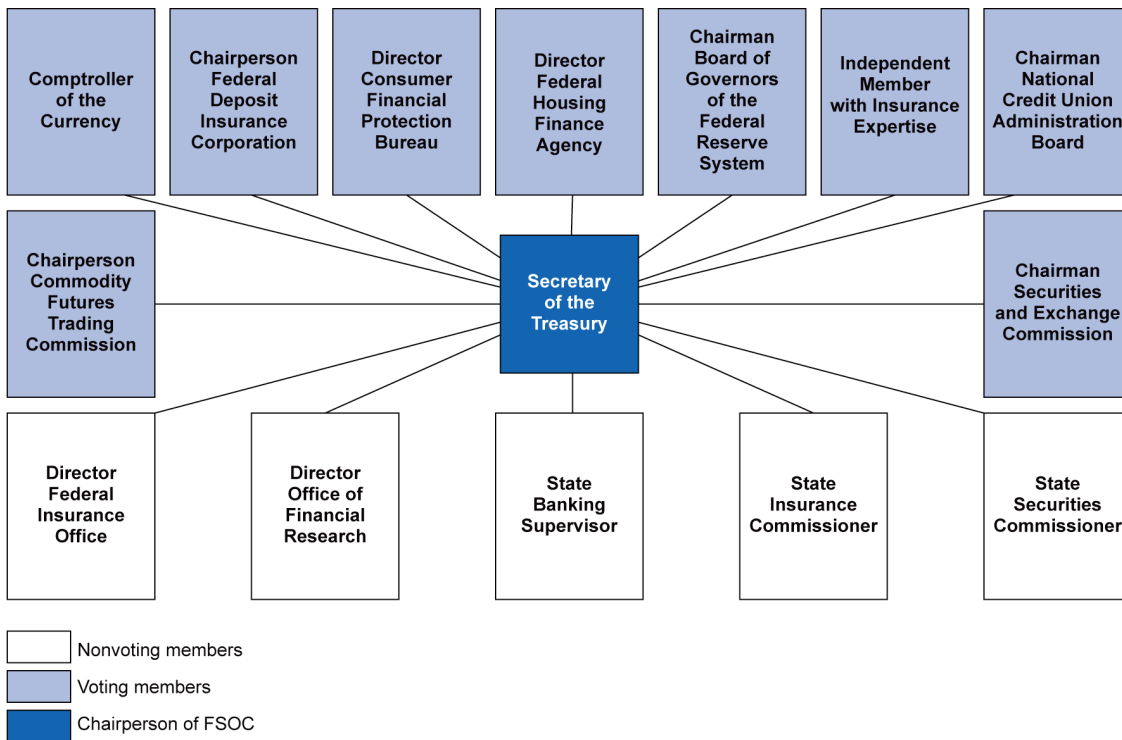
## Background

FSOC has 10 voting and 5 nonvoting members (fig. 1). The 10 voting members include 9 federal regulators and an independent insurance expert. The five nonvoting members include representatives from state bank, securities, and insurance regulators and the directors of OFR and the Federal Insurance Office. As the chairperson of FSOC, the Secretary of the Treasury has certain powers and responsibilities related to FSOC's meetings, rulemakings, recommendations, and reports and testimony to Congress. The Secretary, in consultation with the other FSOC members, is also responsible for regular consultation with the financial regulatory entities and other appropriate organizations of foreign governments or international organizations. To help carry out the council's business, FSOC has established seven standing committees that are generally composed of staff of FSOC members and member agencies.<sup>9</sup>

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<sup>9</sup>The committees are the Deputies Committee, Systemic Risk Committee, Designation of Nonbank Financial Companies Committee, Designation of Financial Market Utilities Committee, Heightened Prudential Standards Committee, Orderly Liquidation Committee, and Data Committee.

**Figure 1: Financial Stability Oversight Council (FSOC) Membership**



Source: GAO analysis of Dodd-Frank Act. | GAO-14-873T

The Dodd-Frank Act established OFR to serve FSOC and its member agencies by improving the quality, transparency, and accessibility of financial data and information; conducting and sponsoring research related to financial stability; and promoting best practices in risk management. The act requires OFR to

- collect and provide data to FSOC and member agencies;
- standardize the types and formats of data reported and collected;
- perform applied and essential long-term research;
- develop tools for risk measurement and monitoring; and
- make the results of its activities available to financial regulatory agencies.

To help achieve these goals, the OFR must set up a data center and a research and analysis center.

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## FSOC Has Made Some Progress in Responding to GAO's 2012 Recommendations

FSOC has taken steps to address some of our recommendations, such as those related to communication. However, it needs to take further action to fully address all of our recommendations.

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## Monitoring Systemic Risks and Identifying Emerging Threats

In September 2012, we made two recommendations to FSOC that were designed to improve its efforts to identify and report on sources of systemic risk and emerging threats to financial stability. First, we recommended that FSOC develop an approach that included systematic sharing of key financial risk indicators across FSOC members and member agencies to assist in identifying potential threats for further monitoring or analysis. We reported that FSOC had taken steps to meet its statutory responsibilities related to identifying risks and potential emerging threats to U.S. financial stability, including by setting up a Systemic Risk Committee—one of the seven standing FSOC committees—that is responsible for systemic risk monitoring and plays a key role in reviewing sources of systemic risk. The committee primarily relies on an approach that begins with suggestions from member agency staff of risks or threats that, in their view, may benefit from interagency coordination. As we noted in 2012 this approach may facilitate analysis of risks that could benefit from interagency discussions and responses, but may not help to identify new risks or threats that FSOC member agencies have not already identified on their own.

OFR participates in the Systemic Risk Committee and, since the publication of our 2012 report, has developed a tool known as the Markets Monitor, which provides an update on financial and economic developments, that OFR presents at each meeting of the committee. OFR also continues to develop a Financial Stability Monitor for assessing vulnerabilities in the financial system, which it first presented publicly in its 2013 Annual Report. However, the Markets Monitor does not appear to be focused on risks to the financial system, and the Financial Stability Monitor remains in a prototype phase—and neither yet reflect the systematic sharing of key financial risk indicators to assist in identifying potential threats to financial stability. OFR's continued work to develop indicator-driven tools to assess risks to the financial system is encouraging, but without a more systematic approach and comprehensive information, FSOC cannot be assured that it is fully informed about critical vulnerabilities in the financial system.

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Second, in 2012 we recommended that FSOC develop more systematic, forward-looking approaches that would help in separating emerging threats to financial stability from more current risks and prioritizing them in its annual report. Since then, FSOC made some progress in addressing this recommendation but could do more. When we last reviewed the emerging threats identified in FSOC's annual report in 2012, FSOC had not developed a structure that supported having a systematic or comprehensive process for identifying and separating them from other risks. Further, FSOC had identified a large number of threats without explicitly prioritizing them. In contrast, other entities, such as the International Monetary Fund and European Central Bank, have issued reports that explicitly prioritized potentially significant threats.

Since our 2012 report, however, the ongoing work of the Systemic Risk Committee has become more tightly integrated into FSOC's annual reports according to FSOC officials. FSOC officials told us that the Systemic Risk Committee's efforts to identify and monitor threats to financial stability now served as a basis for the annual report. However, as noted previously, despite some new contributions from OFR, the work of the Systemic Risk Committee is not yet driven by a systematic and comprehensive approach. Instead, FSOC continues to rely on member agency staff to suggest various threats. Although FSOC staff distinguished between current known risks and potentially emerging threats to financial stability, the two are not clearly distinguished in the 2014 FSOC Annual Report. For example, the first threat identified in the 2014 Annual Report was the risk posed by financial institutions' reliance on short-term financing—a risk that had been identified for some time. Moreover, FSOC staff told us that they had not and did not plan to prioritize the threats they identified in the annual reports. FSOC staff said that prioritization could detract attention and resources from some of the identified threats. Until FSOC improves its processes for identifying and prioritizing potential emerging threats to financial stability in its annual reports, policymakers and market participants will not have the information they need to develop effective and timely responses to those threats.

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## Transparency and Accountability

Although FSOC had adopted communication methods to provide information on their activities to the public and taken steps to be transparent and accountable, we reported in 2012 that some of these efforts could be strengthened and made four recommendations. FSOC should



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- develop a communication strategy to improve communications with the public;
  - keep detailed records of closed door sessions of principals meetings and to the extent possible make them publicly available after an amount of time has passed;
  - make recommendations in its annual report more specific by identifying which member agency or agencies, as appropriate, are recommended to monitor or implement such actions within specified time frames; and
  - establish a collaborative and comprehensive framework for assessing the impact of decisions for designating financial market utilities (FMU) and nonbank financial companies on those entities and the wider economy.

## Communication Strategy

In our 2012 report, we noted that FSOC had not taken full advantage of modern communication tools to provide information about its activities and its website did not provide a mechanism for the public to receive updates about the council's activities and decisions. In May 2014, FSOC updated its transparency policy. FSOC staff said that this effort was the result of a review of other entities' governance practices and that the policy reflected a commitment to improve communication with the public. For example, the council will now publicly announce its meetings at least seven days in advance of the meeting and will have a live web stream of its open meetings. In addition, FSOC staff said the decision to provide summaries of the meetings as soon as practicable afterwards was an effort to provide information in a timelier manner. Prior to the change to providing these summaries, the public would have to wait until the next FSOC meeting when the minutes were approved for the prior meeting. FSOC staff said that they have worked to make sure the website is updated more frequently, such as posting minutes soon after the council approves them. In addition, the website now offers the public the ability to sign up for email updates.

## Detailed Record Keeping

In our 2012 report, we found that FSOC did not keep detailed records of deliberations or discussions at the council's meetings or at the committee level. FSOC has said it will provide more information in its minutes but has also argued that some of the information discussed is protected. No specific level of detail is required for FSOC minutes, but the limited documentation of their discussions has made it difficult to assess FSOC's performance. For instance, we reported in 2012 that the minutes typically described agenda items for the meetings and information on the presenters but lacked additional detail even if the information being discussed was not likely to be market sensitive or if disclosing it would not

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affect the deliberations. As a result, the minutes provided the public with little information about FSOC's activities and deliberations.

FSOC staff indicated that the council had been trying to include more detail in its minutes since October 2013. In July 2014, the Council of Inspectors General on Financial Oversight audited FSOC's compliance with its transparency policy and recommended that the council continue its efforts to provide greater detail in the meeting minutes for closed sessions.<sup>10</sup> For example, it specifically noted that FSOC could have provided more information than it did about a presentation on housing finance rules from its December 2013 meeting because the rules were final. In 2012, we reported that similar bodies, such as the Federal Open Market Committee, publish minutes that provide greater detail and voluntarily release transcriptions of their meetings 5 years after a meeting occurs. FSOC staff recognized the need for transparency but also noted that certain information was protected from disclosure under various statutes and could not be released. They noted more recently that discussions often touched on confidential information, some of which would remain sensitive for long periods of time. However, even if FSOC determines that some information should not be made public, its current practices do not provide detailed records even for policymakers, including members of FSOC, to assess decisions.

#### Accountability in Annual Report Recommendations

FSOC's annual reports serve as a key accountability document. FSOC staff noted that FSOC's annual reports provided Congress and the public with a description of FSOC's activities, its views on potential emerging threats to U.S. financial stability, and recommendations to enhance the integrity, efficiency, competitiveness, and stability of U.S. financial markets. However, in 2012 we found that the annual reports did not consistently designate an FSOC member or members to monitor or implement the recommendations or establish time frames for certain actions, such as reporting to the council on the status of recommendations. Without such detail, we noted, it is difficult to hold FSOC or the responsible member agency accountable for progress in implementing the prescribed recommendation(s).

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<sup>10</sup>Council of Inspectors General on Financial Oversight, *Audit of the Financial Stability Oversight Council's Compliance with Its Transparency Policy*, CIGFO-14-001, July 2014.

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## Framework for Assessing Designation Decisions

In March 2013, Treasury officials told us that FSOC had begun to develop a process for the 2013 annual report and that our recommendations were provided to the team assigned to pull together the annual report for consideration. In June 2014, they told us that they had identified responsible agencies or others for certain recommendations in its most recent reports, as appropriate. In September 2014, FSOC staff explained that staff supporting the Systemic Risk Committee were monitoring progress and actions related to the annual report recommendations and providing updates on previous recommendations in the following year's annual report. We found that the 2014 annual report reflected progress in identifying member agencies that would address certain recommendations compared to the 2012 report. However, several recommendations continue to include specific actions without identifying an agency or agencies responsible for them. For example, the council recommends developing a plan to implement a smooth transition to any new interest rate benchmarks—rates such as the London Interbank Offered Rate (LIBOR), which are the basis for hundreds of trillions of dollars in financial contracts—but does not identify any specific member agencies or others who would develop the plan.<sup>11</sup> We continue to believe that FSOC should hold responsible parties accountable for its recommendations and identify them in its annual report as appropriate.

The Dodd-Frank Act gave FSOC the authority to designate FMUs as systemically important if FSOC determined that the failure of an FMU or a disruption in its functioning could threaten U.S. financial stability. Similarly, the Dodd-Frank Act provided FSOC with the authority to designate nonbank financial companies for supervision by the Federal Reserve under its enhanced prudential standards.<sup>12</sup> The act stipulates that FSOC may designate these companies if material financial distress at that company, or the nature, scope, size, scale, concentration,

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<sup>11</sup>The international regulatory community moved to reform LIBOR after systematic manipulation of interest rate surveys. FSOC identified threats related to continued reliance on LIBOR, including that reference rates are not anchored to observable transactions and that LIBOR might be discontinued.

<sup>12</sup>The Dodd-Frank Act also subjects large bank holding companies with total consolidated assets of \$50 billion or more to enhanced supervision and prudential standards. No FSOC designation is required for these bank holding companies to be subjected to enhanced supervision and standards. In addition, some potential nonbank holding companies that may be designated are already subject to some Federal Reserve oversight because they are thrift holding companies. The Dodd-Frank Act transferred the oversight of these companies from the Office of Thrift Supervision to the Federal Reserve.

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interconnectedness, or mix of the company's activities could pose a threat to U.S. financial stability. In our September 2012 report, we recommended that FSOC develop a comprehensive framework for assessing the impact of its designation decisions. While FSOC has done some limited reviews, it has not planned for a comprehensive review that would provide a broad picture of the impact of designating these firms.

To date, FSOC has designated eight FMUs and three nonbank financial companies. On September 4, 2014, it announced that it proposed to designate another nonbank financial company. The designations were intended to address certain risks that these entities posed to financial stability and have the potential to confer other benefits and costs on the wider economy (as well as on the designees). We noted in our March 2013 testimony that FSOC had some limited processes in place to review its designations of nonbank financial companies, including an annual review and a review of the stage one thresholds stated in dollar terms at least every 5 years.<sup>13</sup> FSOC reported that at its July 31, 2014, meeting, it held a discussion that included an annual review of two nonbank financial companies designated in July 2013: American International Group, Inc. and General Electric Capital Corporation. The council did not rescind either company's designation. However, we also had noted in our 2013 testimony that FSOC had not set up processes to conduct a comprehensive assessment of the overall impact of the designations and to determine whether they were achieving the intended result.

We recognize that doing a comprehensive analysis to assess whether designations are having their intended impact of providing greater financial stability and the extent of any other impacts will be challenging. For example, establishing a baseline from which to evaluate the overall impact of the designations will likely be complex because the impact will depend on the application of a number of rules being written by multiple independent regulatory agencies—the Commodity Futures Trading Commission, Federal Deposit Insurance Corporation, the Federal Reserve, and Securities and Exchange Commission—and issued over a

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<sup>13</sup>The process for designating nonbank financial companies for enhanced supervision generally includes three stages. The guidance for determining whether a company should pass from the first stage to the second stage, uses six uniform quantitative thresholds that measure size, debt, leverage, and derivative liabilities. If a company meets the size threshold of having total consolidated assets of at least \$50 billion and one of the other thresholds, it would move from stage one to stage two.

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span of time.<sup>14</sup> However, FSOC is uniquely positioned to address challenges associated with such an analysis. FSOC is responsible for designating FMUs and nonbank financial companies, and its member agencies are responsible for writing the rules that will impact these designated entities. Moreover, FSOC with OFR's help has already collected information on both designated and other companies that could help in creating a baseline. FSOC could also continue to rely on OFR for some further data collection and analysis. But without a comprehensive assessment, decision makers may not have the information they need to determine whether designating new entities for enhanced supervision and other requirements and restrictions is addressing a perceived gap in the regulatory system and improving the financial system's stability or whether policy changes should be considered.

According to FSOC staff, the recurring study required under Section 123 of the Dodd-Frank Act (next required no later than January 2016) is the appropriate mechanism for evaluating the overall impact of the designations process. Section 123 requires FSOC's Chairperson to carry out a study of the economic impact of possible financial services regulatory limitations on financial institutions that are intended to reduce systemic risk. According to the act, such a study should estimate the benefits and costs on the efficiency of capital markets, on the financial sector, and on national economic growth of limitations on the activities or structures of financial institutions that may be useful to limit systemic risk, such as limits on the organizational complexity and diversification of large financial institutions. FSOC staff said that they had not begun planning for a study and did not know when planning for it would begin. We noted in our 2012 report that such an evaluation would require collaboration among several members of FSOC and emphasized the importance of advance planning for retrospective studies so that needed data are collected. We have ongoing work examining FSOC's designation process, including the data collection, analyses, and criteria used in making determinations. We plan to issue this report later this fall.

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<sup>14</sup>In [GAO-12-151](#) we note the importance of setting up baselines early to support later retrospective reviews of individual rules. In addition, we reported that in light of its various statutory requirements, FSOC plans to assess the future impact of significant Dodd-Frank rules. Given these plans, we previously recommended that FSOC direct OFR to begin collecting the necessary data to carry out these analyses.

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## Collaboration and Coordination

In our September 2012 report, we also made three recommendations to improve FSOC's collaboration and coordination. Title I of the Dodd-Frank Act directs FSOC to facilitate information sharing and coordination among its member agencies and other federal and state agencies regarding domestic financial services policy development, rulemaking, examinations, reporting requirements, and enforcement actions.<sup>15</sup> The Dodd-Frank Act encourages collaboration between FSOC and external stakeholders, especially state regulators and international entities.

However, we found FSOC could do more to promote collaboration and coordination. We recommended that it establish formal collaboration and coordination policies that clarify issues such as when collaboration or coordination should occur and FSOC's role in facilitating that coordination. In October 2010, FSOC issued an integrated implementation road map for the Dodd-Frank Act that included a list of the rules regulators were required to promulgate, provided a time line for those rulemakings, and identified the agencies responsible for each one. FSOC has also developed a consultation framework for the agencies involved in rulemakings. In a November 2011 report, we noted that although FSOC's road map and consultation framework were a positive development in facilitating coordination, they had limited usefulness.<sup>16</sup> For example, the consultation framework does not provide any specifics about staff responsibilities or processes to facilitate coordination, and according to FSOC staff, it is not intended to provide such information. It also does not describe when interagency coordination is required or what happens when rules conflict with or duplicate each other.

Since our 2012 report, FSOC has made some changes that are responsive to this recommendation. It has undertaken a review of its governance structure, and one of the outcomes of that review was the development of bylaws for its Deputies Committee of senior officials from member agencies, which were adopted in May 2014. These bylaws formally state that the Deputies Committee is responsible for coordinating and overseeing the work of FSOC committees, coordinating the council's agenda, and coordinating with OFR. A key purpose of the bylaws is to provide guidance on how the Deputies Committee will function when the council delegates to it any authorities or actions. FSOC staff recently told

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<sup>15</sup>12 U.S.C. § 5322(a)(2)(E).

<sup>16</sup>[GAO-12-151](#).

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us that FSOC has an ongoing effort to develop charters for the other committees that serve the council. The Deputies Committee's bylaws and the ongoing effort to review FSOC's governance structures are positive developments in providing additional clarification on the roles and responsibilities of FSOC committees. We will continue to monitor these efforts and the extent to which they clarify coordination and collaboration across member agencies.

Similarly, in our September 2012 report, we recommended that FSOC more fully incorporate key practices for successful collaboration that we have previously identified, which could include working jointly with agencies to coordinate schedules for rulemakings, conduct collaborative systemwide stress tests, or create external advisory committees.<sup>17</sup> FSOC staff told us that the statute did not give FSOC the authority to direct actions of individual members including requiring members to coordinate rulemakings. While we understand the sensitivity to respecting members' independence, we maintain that additional collaboration practices can be adopted without impinging on the regulators' independence. Further, although the Dodd-Frank Act gave FSOC a certain statutory exemption to encourage the development of external advisory committees that could include industry representatives, academics, and state regulators, it has not formed any such committees. However, over the last year, FSOC has reached out to external stakeholders in some other ways. In May 2014, FSOC held a public conference on the asset management industry and its activities, at which they solicited input from the industry and other stakeholders, including academics and public interest groups. FSOC staff at Treasury also told us in June 2014 that a banker had briefed FSOC principals on cybersecurity issues.

Finally, we recommended in our September 2012 report that FSOC and OFR clarify responsibility for implementing requirements to monitor threats to financial stability across FSOC and OFR, including among FSOC members and member agencies. As noted earlier, FSOC is tasked with monitoring the financial services marketplace to identify potential

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<sup>17</sup>This recommendation complements a previous recommendation we made in our 2011 report on financial regulations ([GAO-12-151](#)). Specifically, in that report we recommended that FSOC enhance interagency coordination on regulations issued pursuant to the Dodd-Frank Act by working with federal financial regulators to develop formal coordination policies that would clarify issues such as the timing of coordination, the process for soliciting and addressing comments, and FSOC's role in facilitating coordination.

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threats to U.S. financial stability, and OFR's Research and Analysis Center must develop and maintain metrics and reporting systems for risks to U.S. financial stability as well as monitor, investigate, and report on changes in systemwide risk levels. The Dodd-Frank Act defines certain responsibilities for FSOC and OFR, but the lack of clear responsibility for implementation can lead to duplication, confusion, and gaps in their efforts. This risk is further compounded by the fact that many FSOC member agencies have risk analysis and data collection functions associated with their supervisory responsibilities. Some of these functions are explicitly focused on risks to financial stability, and some member agencies have created their own programs to examine them. To the extent that these programs provide unique information to FSOC, they will be contributing to the overall effort. However, if not properly coordinated, these separate efforts could be less effective and duplicative, resulting in wasted time and resources.

FSOC staff told us that FSOC and OFR work well together and that there was no need to make formal distinctions when both entities were statutorily required to monitor risks to financial stability. They also stated that though some overlap existed in the roles of the council and member agencies in terms of overseeing threats to financial stability, the council provided a forum for sharing and working together on these issues. We maintain that actions to address these recommendations are needed. Our past work has shown that the lack of clear roles and coordination can lead to duplication, confusion, and regulatory gaps. We have ongoing work reviewing duplication, overlap, and fragmentation in the financial regulatory structure and as part of that work will be reviewing the various roles and responsibilities of federal agencies that oversee risks to financial stability.

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In conclusion, FSOC has worked to establish accountability and transparency mechanisms and promote collaboration among FSOC members and with external stakeholders. However, further efforts continue to be needed, including fully implementing our September 2012 recommendations. Fully addressing our recommendations will help shed more light on FSOC's decision making and activities and allow Congress to hold the council accountable for results. Addressing our recommendations can also help FSOC enhance collaboration among its members and with external stakeholders that are critical to their ability to achieve their missions. We will continue to monitor FSOC's progress in implementing our recommendations and stand ready to assist Congress as it continues its oversight of these entities.



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Chairman McHenry, Ranking Member Green, and Members of the Subcommittee, this completes my prepared statement. I would be pleased to respond to any questions that you may have at this time.

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## GAO Contact and Staff Acknowledgements

For questions regarding this testimony, please contact A. Nicole Clowers at (202) 512-8678 or [clowersa@gao.gov](mailto:clowersa@gao.gov). Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this statement. Other individuals who made key contributions to this testimony statement include Kay Kuhlman (Assistant Director), Nancy Barry, Emily Chalmers, and Michael Hoffman.

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