The U.S. Financial Stability Oversight Council: Understanding Polycentric Governance

By

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Abstract

The most recent crisis in the U.S. financial system revealed serious structural vulnerabilities and resurrected debate about how to better govern the system. After extended inquiry, Congress passed and President Obama signed into law the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank), which among other provisions, establishes a new entity to address financial stability: The Financial Stability Oversight Council (FSOC). Yet public concerns and controversy about governing the financial system have not abated, leading us to wonder how we can better understand and investigate the FSOC as a governing mechanism. In this paper we extend work in institutional political economy to analyze the nature of the financial system, the governing principles of the FSOC, and the fit between them. We argue that the U.S. financial system and the FSOC are examples of polycentric systems and identify principles that can be further investigated to explore governing issues in polycentric systems.

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Introduction

The U.S. financial system is a very large, complex system that supports a $14 trillion economy that is growing at the rate of approximately 2% per year. The fundamental sources of risk in the system–human imprudence, fraud, information biases and deficits, poorly-enforced contracts, mania, and panic–are behavioral and they have to do with how we govern ourselves, our organizations, and our relations with each other. While these fundamental sources of risk have not changed, the structure of the system–the people who participate, the rules that govern behavior and the types of discovery, contracting, and clearing mechanisms in the system–have changed. And change is a double-edged sword, creating new opportunities for growth as well as unexpected risks.

One of the few benefits that arose from the 2008 crisis was a renewed appreciation for the hazards associated with systemic risk.[1] In July 2010, the U.S. Congress enacted the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank).[2] Among many other provisions, Dodd-Frank creates the Financial Stability Oversight Council (FSOC), which is authorized to identify and advise participants on sources of risk in the financial system.

Addressing questions about the FSOC from a research perspective requires a theory of governance, an operationalization of theory, and an investigation. In this paper, we do the preliminary work that is required to more formally investigate the design of the FSOC

[1] Systemic risk arises when those who are transacting in a system cannot meet significant contractual commitments, which can happen when parties either behave imprudently or events disrupt their ability to meet their obligations. For an overview of the policy issues posed by the 2008 crisis, see Webel (2010). For an analysis of the nature of systemic risk in the U.S. financial system, see Polski, 2009(a). For a more detailed description of risk management in financial enterprises, see Polski, 2009(b). For detailed background on the 2008 financial crisis, see the report of the Financial Crisis Inquiry Commission (2011) and the Committee on Homeland Security and Government Affairs Permanent Subcommittee on Investigations report (2011).
[2] The text of Dodd-Frank can be found at http://thomas.loc.gov/cgi-bin/query/z?c111:h4173:

and its role in governing the U.S. financial system. We describe the U.S. financial system, extract a theory of governance from the U.S. political economy literature and operationalize this theory, and analyze the nature of governance in the U.S. financial system including the role of the FSOC.

Section One describes the U.S. financial system over the period 1960-2008 and makes that point that it is an evolving system. Section Two describes governing institutions in the U.S. financial system. Section Three conceptualizes the system as a polycentric system and provides an operational framework for analyzing governing institutions in the system. Section Four describes the governing institutions of the FSOC and the results it has achieved through January 31, 2012. Section Five analyzes the polycentricity of the financial system before and after the creation of the FSOC, and Section Six concludes and provides recommendations for further investigation of polycentric governing systems.

One: The U.S. Financial System

The U.S. financial system is much larger than other domestic financial systems, structured quite differently, and has substantially changed over the past 50 years. In 1960 the financial sector produced about 4% of U.S. Gross Domestic Product (GDP).[3] As we can see from looking at Figure 1, the primary asset holders and risk managers in the U.S. financial system were households, commercial businesses, and governments: Together they held over 70% of the assets in the system. Most financial transactions were handled by intermediaries, which were limited by law to a specialized set of activities and closely

[3] Bureau of Economic Analysis GDP by Industry Accounts, April 26, 2011.

supervised by either state or federal regulators.[4] Financial products and services, which were based primarily on deposit taking, lending, and insurance, were relatively simple and easily understood. Most capital market activities took place in a small number of member-managed public financial exchanges supervised by the Commodities Futures Trading and Securities and Exchange Commissions. Trading on these exchanges was confined to well-understood commodities, equities, and bonds, and traders conducted business on a physical trading floor using open out-cry methods.

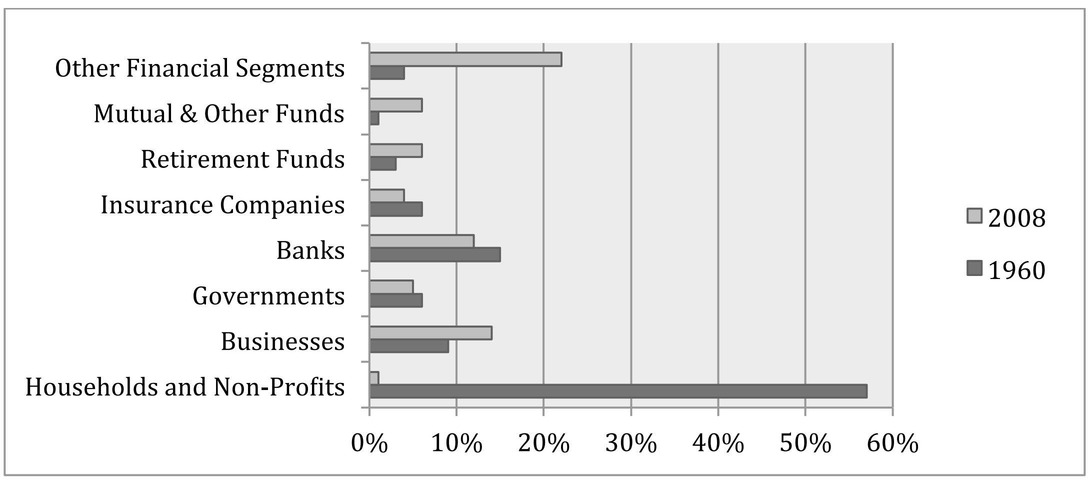
By 2008 when the crisis occurred, the financial sector had increased to about 8% of the U.S. economy and over 70% of the assets in the system were held in capital markets with most held in private capital markets.[5] Geographic barriers in banking that had existed since the beginning of the republic as well as the product and service barriers created by the Glass-Steagall Act reforms after the 1929 crisis had been removed. Financial products had evolved to include increasingly complex asset-backed securities that were not well understood by users or regulators. A significant share of financial activity had migrated to a rapidly proliferating set of private exchanges with limited experience with self-regulation. Trading in both public and private exchanges was conducted primarily on electronic platforms and executed by a combination of artificially intelligent agents and human traders.

In sum, over the period 1960-2008, the size of the U.S. financial system grew and it became a larger part of the economy. While the number and types of participants operating

[4] Examples of financial intermediaries include banks, insurance companies, private investment firms, and broker-dealers. Market, product, and service restrictions were relaxed by regulatory reforms in the 1990s.
[5] See Bureau of Economic Analysis GDP by Industry Accounts, April 26, 2011 for data on the size of the financial sector in the economy. Analysis of December 31 2008 Flow of Funds accounts data indicate that approximately 49% of financial assets were held in private capital markets and 24% in public capital markets (Polski 2009(a)). For a more detailed analysis of change in the system, see Polski (2003).

in the system increased, there was consolidation in some segments of the system that increased the number of very large intermediaries, and there was considerable regulatory change. Specialists created new products and services and there was an increase in the number of types of products and services. Finally, the methods and technologies used to facilitate financial transactions shifted from paper-based transactions implemented by human traders using open-outcry to computer-based transactions implemented by a combination of human and artificial agents, increasing the role of the financial market utilities that facilitate contracting.

Figure 1: Asset Holding in the U.S. Financial System 1960-2008
Source: Polski (2009a)



Two: Governance in the U.S. Financial System

A financial system is not a tangible entity: It is a way of describing the myriad contracting activities associated with transforming the liquid economic surpluses or assets generated by current economic activities into illiquid investments in other types of economic activities that show potential to produce surpluses in the future.

There are four general types of contracting activities in the U.S. financial system: Banking, insurance, investment management, and trading. Contracting in banking involves taking deposits from those with temporary funds surpluses, making loans to those with funds deficits, and promising to return funds of equal value to depositors upon demand. Insurance contracting involves taking premiums from those who undertake specific risky commitments and making payments to them or a designated beneficiary in the event they are not able to meet their commitments. Investment management contracting involves advising and assisting those with funds surpluses to earn a return on their assets. Trading contracts involve exchanging one asset for another at a mutually agreeable price.

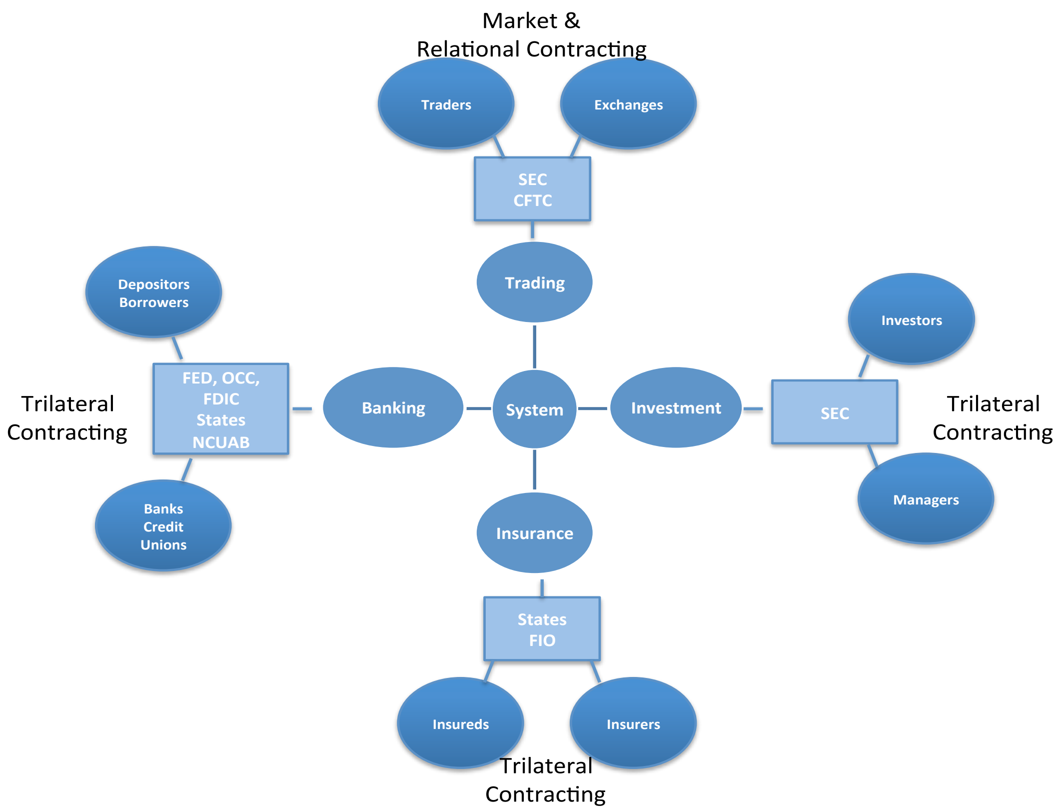
Figure 2 provides a high level view of governing institutions and organizations in the U.S. financial system. The system has several levels. At the micro level, contracting is governed by the operating practices of the individuals and organizations that consume and produce financial services in the various sectors of the industry, e.g. consumers include depositors, borrowers, insureds, investors, and traders; producers include banks, insurance companies, investment companies, and exchanges. Micro level governing institutions range from classical market to relational contracting arrangements.[6]

Most micro level financial contracting activities in the U.S. are further governed by what Williamson has described as trilateral contracting institutions. Contracting parties (depositors, borrowers, insureds, and investors) transact through licensed intermediaries (banks, insurers, and investment managers) with specialized knowledge and skills. Meso

[6] Williamson (1985; 1996) argues that there are many ways to structure and govern contracting relations in a free-market economy. He postulates that the most efficient form of governance is determined by the economic nature of contracting activity. He provides a typology that is based upon the frequency of interaction among contracting parties and the investment characteristics of the assets with which the parties are concerned (Appendix 1). The typology includes market, trilateral, and relational contracting institutions.

level governing institutions include professionally sanctioned practices and industry standards enforced by voluntary self-governed associations.

Figure 2: Contracting & Governance in the U.S. Financial System



At the macro level financial contracting is governed by public laws and regulations enforced by specialized administrative agencies. Banking activities are governed by the Federal Reserve, the Federal Deposit Insurance Corporation, the Office of the Comptroller of the Currency, the National Credit Union Administration Board, and state bank regulators; insurance activities are governed by state insurance commissions; investment management and securities trading are governed by the Securities and Exchange Commission; and commodities futures trading is governed by the Commodities Futures Exchange Commission.

How can we understand the logic of this very complex set of governing arrangements and analyze it systematically? We assert that the U.S. financial system is an example of what Vincent Ostrom has described theoretically as a polycentric system: A system of political and economic activity that has many self-governed decision-making centers that are formally independent of each other.[7] In the next section we explore the concept of polycentric governance in more detail, operationalize it and apply it to analyzing the FSOC.

Three: Conceptualizing & Testing Polycentric Orders [8]

In contrast with a hierarchical system, a polycentric system does not have a final, central, or decentralized source of authority and it does not use command and control or standardization to organize and govern system-wide activity. Theoretically, each unit in a polycentric system organizes and governs its self, no single unit is able to dominate any other, and units have equal standing and participation rights with respect to crafting rules of association with others: Individual units in the system may choose to use hierarchical forms of governance but the system itself is not hierarchical.

In contrast to the infrequent bilateral relations that characterize a classical market system, units in a polycentric system regularly associate in multilateral fashion based on common interests and mutual accommodation rather than infrequent, specific transactions. Subject to voluntarily negotiated constraints, they are free to operate as they

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[7] Ostrom, Tiebout, and Warren (1961).

[8] In defining and analyzing polycentricism in the U.S. political economy, we extend the foundational work of Madison (Federalist 51); Ostrom, Tiebout, and Warren (1961); Ostrom (2008(a); 2008(b); 1994; 1979); Ostrom and Allen (2012, 2011); Polski and Ostrom (1999); Sabetti et al. (2009); and Sproule-Jones, et al. (2008). We also draw on a conversation with Elinor Ostrom in January 2012 based on her extensive work analyzing self-governing institutions.

choose and transact bilaterally or multilaterally. Units may be quite different from each other, exhibiting different types, forms, sizes, operating principles and procedures, statutory authorities, and so on. However participants deliberately order and govern the system using special institutions that they create to solve collective action and coordination problems that arise from joint and several activities.

Ostrom argues that polycentric orders are intentionally created rather than spontaneous or pathological phenomena and that the potential for polycentricity in American political-economic life is provided by U.S. constitutional design. While he asserts that polycentric orders can be the source of political and economic vitality, the mere existence of polycentricism does not guarantee vitality and we should not assume that all American polycentric systems are fully functional at all times.[9] Vulnerabilities and threats include participation by individuals or groups who do not have the training or experience to understand what they are doing, what others are doing or the relevance of their behavior for overall system performance; secrecy or information deficits that prevent participants from understanding what is going on in the system; institutions, processes, or events that diminish checks and balances and make it possible for individuals or coalitions to dominate or undermine others in the system; fraud or corruption; catastrophic or disastrous events outside the system; dysfunctions in other systems upon which the particular system depends such as law enforcement, infrastructure, or political or economic processes.

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[9] For a critique of the evolution of understanding of polycentricism in the U.S. political economy and governing vulnerabilities, see Ostrom (2008b).

Extrapolating, we operationalize Ostrom's concept of a polycentric system using seven characteristics, which we list in Table 1. Using these seven characteristics we can systematically explore the extent to which institutions in a particular system conform to our concept of a polycentric system and potentially test theoretical predictions about alternative designs. We note that Ostrom's concept of polycentricity does not explicitly identify stability, the absence of crisis, or technical efficiency as design characteristics or design objectives. As we interpret Ostrom, the exceptional aspect of the U.S. constitution is that it is designed to function as a playbook or a set of rules of the game for institutional design: It is not a doctrine nor is it a prescription. Rather than dictating particular outcomes or ideals, the U.S. constitution provides guidelines that allow individuals and groups to design governing orders (including redesigning the constitution) to achieve general ideals, solve particular problems, or produce specific outcomes as they see fit at a given point in time. It is in this way that the American form of government provides the potential (but not the requirement) for citizens to actively and adaptively craft the way that they are governed, for themselves, and by themselves.

Table 1: The Characteristics of a Polycentric System

1. The system is comprised of multiple autonomous units that are formally independent of one another and operate according to their own rules
2. Units in the system have equal standing with respect to each other: A single unit or coalition of units is not able to dominate the system
3. Units act in a manner that indicates that they are attentive to and accounting for the externalities they may impose on other centers
4. There is transparency and information sharing amongst units such that units are able to estimate what is happening at all levels and in all areas of the system
5. The participants in the system are technically qualified and capable of deliberating and solving problems in the system in association with others
6. There are rules and processes that allow units to challenge the actions of other units subject to the rule of law
7. Units are aware of changes in their environment and they consistently adapt and innovate

Four: The FSOC: Governing Risk in the U.S. Financial System Under Dodd-Frank

In the wake of the 2008 crisis and after extensive investigation, the U.S. Congress created the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010. Among many other provisions, Dodd-Frank creates the Financial Stability Oversight Council (FSOC) to achieve the following outcomes:

- Identify risks to the financial stability of the United States that could arise from financial activities, particularly the risks associated with the activities of large inter-connected bank holding companies and nonbank financial companies,
- Promote market discipline by eliminating the expectation that the Government will shield investors from losses in the event of failure,
- Respond to emerging threats to the stability of the system.[10]

The Act also creates an Office of Financial Research to support the FSOC and a Federal Insurance Office to advise the Secretary of the Treasury and make recommendations to the Council on insurance matters.

FSOC Authorities

The FSOC is not a dedicated system regulator nor is it required by law to eliminate crises or maintain stability. It is a council of regulators that is required by law to convene regularly to identify and educate themselves about threats to stability in the system.[11]

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[10] Public Law 111–203–July 21, 2010. Title I, Subtitle A. For an overview of how Dodd-Frank addresses the policy issues raised by the 2008 crisis, see Webel (2010).

[11] Prior to the creation of the FSOC, the U.S. financial system did not have a formal coordinating body that was legally authorized to identify and advise regulators on threats to the stability of the system: Risk in the banking system was addressed by banks and bank regulators, which examined the financial strength of individual banks and resolved troubled entities. Insurance companies and state insurance commissions governed risk management in insurance activities. Risks associated with trading in public capital markets were managed by self-governed investors and member-governed exchanges under the supervision of the Securities and Exchange Commission and the Commodities Futures Trading Commission. Private capital markets and other unregulated financial entities governed their own risks with limited state or federal

While the Council may coordinate rulemaking efforts by making recommendations to the appropriate primary financial regulators or Congress, it has no explicit regulation, examination, or enforcement powers. The Council's rulemaking authorities are limited to creating and implementing rules related to carrying out its responsibilities under the law.

FSOC's specific responsibilities include identifying gaps in regulation, suggesting to the member agencies general supervisory priorities and principles, monitoring domestic and international financial regulatory proposals, studying and reporting on key issues in U.S. financial stability, placing a nonbank financial company under the supervision of the Federal Reserve (Fed) if that company is deemed to pose risks to stability, affirming cases where the Fed seeks to limit or reduce the activities of a large, systemically important financial company, and identifying systemically important financial market utilities and payment, clearing, and settlement activities. The FSOC may also mediate jurisdictional disputes among member agencies on a non-binding basis. Finally, in carrying out its duties it is allowed to collect data and information from both federal and state agencies as well as directly from financial services companies.

FSOC Membership, Structure, and Organization

The FSOC's membership, structure, organization, and standard operating procedures are determined by Dodd-Frank, U.S. Code Title 5, rules of organization

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regulatory supervision. While regulators coordinated informally to address shocks and failures as they occurred, the *de facto* policy was to rely on the Federal Reserve and private asset holders to deal with crises after the fact, typically by providing liquidity to the system to stem panic and prevent credit flows from freezing up.

approved by the Council on October 1, 2010, and policies and procedures the Council creates in the course of doing business.[12]

The Council is a network of federal and state financial services regulators, which has ten voting members and five non-voting members (Appendix 2).[13] Voting members include the executives of the major federal financial regulatory agencies and an independent member with insurance expertise who is designated by the President. Non-voting members, who serve for two years, include state-level regulators and the directors of the Office of Financial Research and the Federal Insurance Office. State regulators as a group select the three state level members from among their peers using a process of their own choosing. Non-voting members provide expertise and guidance on specific issues and are included in all meetings and deliberations except where they are excluded by an affirmative vote of the member agencies.[14]

Decisions are made by a simple majority of the currently serving voting members, unless otherwise specified in the text of the law. Decisions regarding placing nonbank financial companies under the supervision of the Board of Governors, determining if a company has been in engaged in evasion of the law, and the designation of financial market utilities, or payment, clearing, or settlement activities as systemically important require an affirmative vote from at least two thirds of the voting members including an affirmative vote from the Chairperson of the Council.[15]

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[12] The Council's rules of organization and existing policies and procedures can be found on the Council's website: http://www.treasury.gov/initiatives/FSOC/Pages/default.aspx
[13] Appendix 2 lists the FSOC member positions, terms, and associated appointment processes.
[14] Dodd-Frank Section 111.
[15] Dodd-Frank, Sections 113 and 804.

Figure 3: The Financial Stability Oversight Council

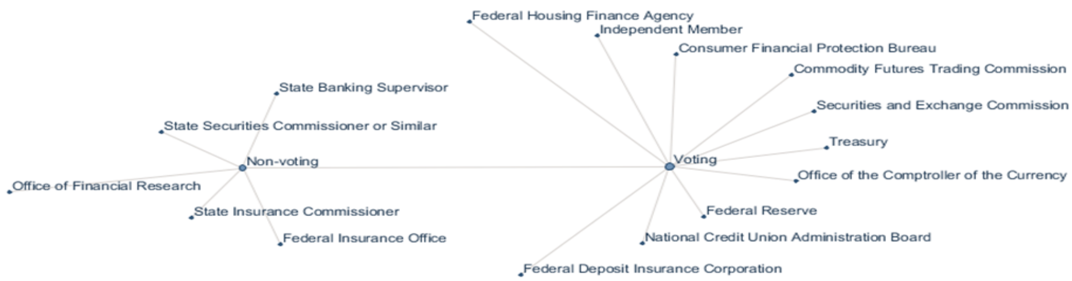
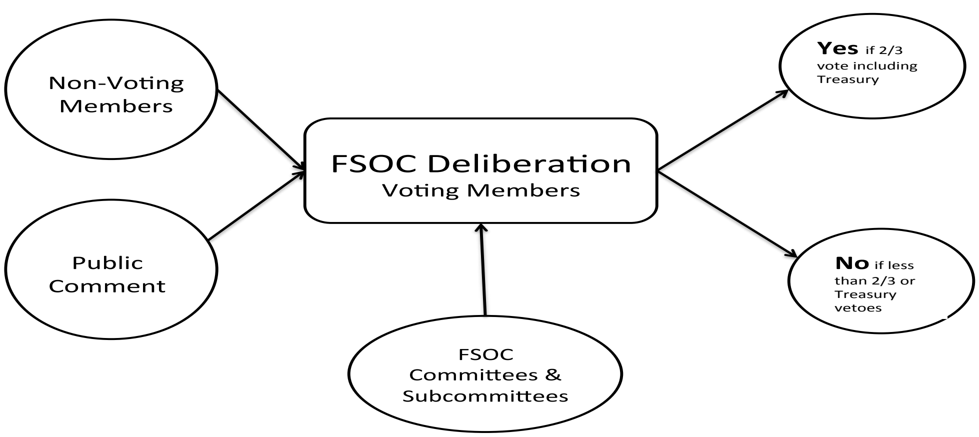


Figure 4: FSOC Decision Making for Determining Systemic Importance



The council is convened and chaired by the Secretary of the Treasury. While Dodd-Frank does not explicitly grant the chairperson of the FSOC additional privileges or powers, many of the provisions that outline the council's functions and decision-making processes require an affirmative vote from the Chairperson. Hence the Secretary of the Treasury has potential veto power over certain decisions.[16]

The Council staff includes an Executive Director, Legal Counsel, and a Secretary. The staff is directed and managed by the Chair, subject to Council oversight. A Deputies Committee, which is comprised of a senior official from each of the voting member agencies, is responsible for coordinating and overseeing the work of the Council's committees. Council committees are interagency groups that are staffed by detailing senior staff from the member agencies. [17]

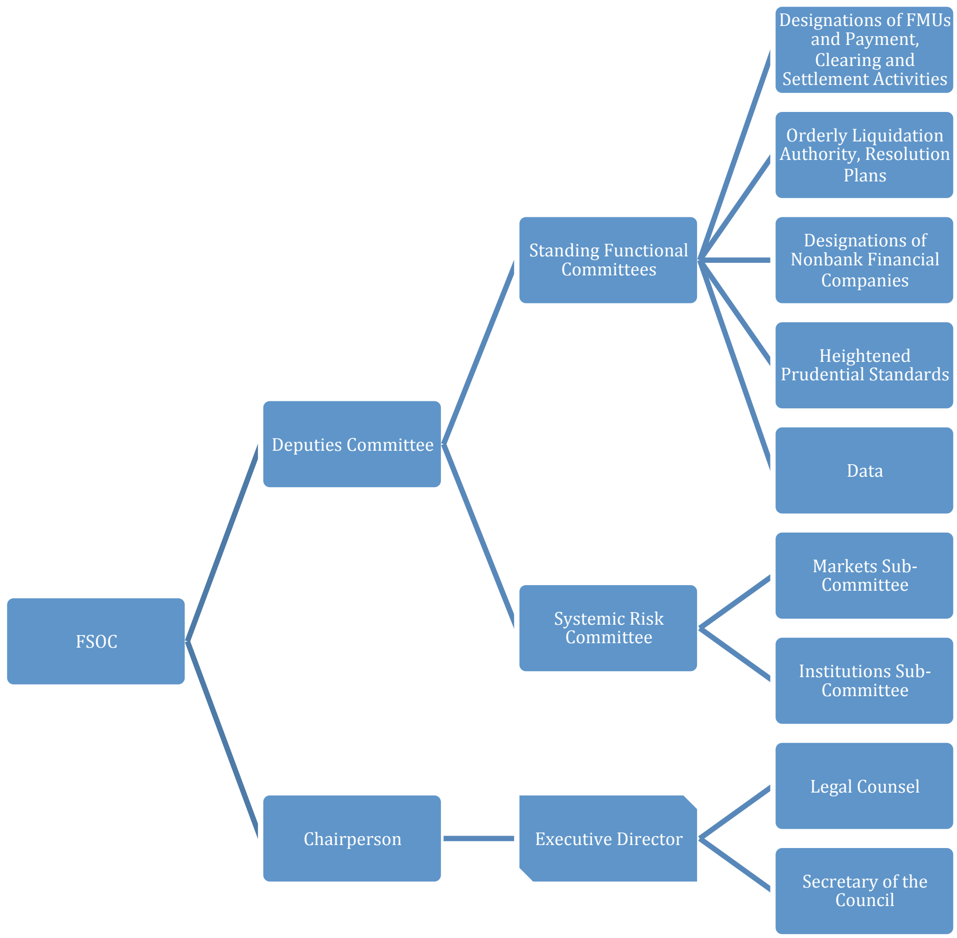
FSOC committees include the Systemic Risk Committee and its subcommittees, five standing functional committees, and an informal interagency working group that assists the Council with legal issues pertaining to its operations and proceedings. The Systemic Risk Committee and its subcommittees—Institutions and Markets—focus on monitoring systemic risk. There are 5 functional committees, which are listed in Table 2.

Table 2: FSOC Functional Committees

Committee	**Function**
1. Designations of Nonbank Financial Companies	Assists in deciding on nonbank financial companies that will be put under the supervision of the Board of Governors
2. Designations of Financial Market Utilities and Payment, Clearing, and Settlement Activities (FMUs)	Advises the Council in designating FMUs for heightened supervision
3. Heightened Prudential Standards	Recommends prudential standards for systemically significant entities
4. Orderly Liquidation Authority, Resolution Plans	Advises on liquidation of troubled entities
5. Data	Advises on data collection; coordinates and directs the OFR

[16] Dodd-Frank Sections 113 and 804.
[17] Rules of Organization of the FSOC, Section 3.

Figure 5: The FSOC Organization



Activities and Results Achieved

The FSOC was created in July 2010. It held its first meeting on October 1, 2010. Since its inception through January 2012 it has been engaged in the following activities:[18]

1. **Organizing and launching the FSOC** including creating a "roadmap" to guide its initial activities; developing and approving rules of organization (Bylaws), a policy on transparency, and a standard set of analyses that Council members receive prior

[18] Our summary and analysis of FSOC activities is based on our review of publicly available work products as of 1.9.12, many of which are listed in the References section of this paper and can be found at http://www.treasury.gov/initiatives/FSOC/Pages/default.aspx.

to each meeting on current conditions and trends; standing up and staffing the FSOC office and its committees, subcommittees, and informal working groups, the Office of Financial Research (OFR), and the Federal Insurance Office (FIO); testifying before Congress on 8 occasions; developing and approving operating budgets for FY11 and FY12.[19] In fiscal year 2011, the FSOC had 13 employees, 3 staff detailed from member agencies, and operating expenses totaling $2.9 million. The Council estimates that staffing will increase to 24 in fiscal year 2012 and operating expenses will total $8.3 million.[20]

2. **Convening meetings** including 14 member meetings through 2/1/12 (Appendix 3) with 32 informational presentations by the staff of member agencies (Appendix 4) and numerous committee and working group meetings. All members have consistently attended all meetings and votes on all decisions have been unanimous. Fifteen agencies contributed to preparing and delivering presentations: The majority of presentations were prepared and delivered by staff from two or more agencies. The most common topics were trends in the macro-environment, designation of Financial Market Utilities (FMUs), money market mutual funds, and designations of non-bank financial holding companies. Staff members from Treasury

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[19] Eight different FSOC members have testified before Congress on FSOC activities: Six FSOC members testified on oversight of the FSOC before the U.S. House of Representatives Committee on Financial Services Subcommittee on Oversight and Investigations on April 14, 2011 (See Cook; Gensler; Goldstein; Liang; Long; & Murton); FSOC State Insurance Commissioner member John Huff testified on insurance oversight before the Subcommittee on Insurance, Housing and Community Opportunity Committee on Financial Services, United States House of Representatives on July 28, 2011; FSOC Chairman and Secretary of the Treasury Geithner presented the FSOC annual report to Congress in a hearing before the Senate Committee on Banking, Housing, and Urban Affairs on October 6, 2011.

[20] FSOC expenses are paid by the Office of Financial Research (OFR) through transfers from the Federal Reserve in the first two years after enactment of Dodd-Frank. After two years it will be funded through assessments on bank holding companies with greater than $50 billion in assets and nonbank financial companies supervised by the Federal Reserve. Assessments will be set through regulation by the Secretary of the Treasury with the approval of the Council (Dodd-Frank).

and the Federal Reserve were the most active in developing presentations, reflecting the nature of the topics and relative differences in resources and responsibilities, however, nearly all of the voting member agencies have made presentations.

3. **Coordinating rule making** including issuing 3 Advance Notices of Proposed Rulemaking (ANPR); 4 Notices of Proposed Rulemaking (NPR); 1 Notice and Request for Information; and approving one rule.[21] In addition to its own legally required rule making activities, the FSOC facilitated member agency rulemaking activities.
4. **Producing studies and reports** in compliance with all statutorily required study and reporting requirements including submitting its first Annual Report to Congress and 4 studies on key stability issues in the system.[22]
5. **Assessing and responding to systemic threats** posed by ongoing stabilization requirements necessitated by the 2008 crisis in the U.S. financial system; the "flash crash" on May 6, 2010; extraordinary events in Japan, the Middle East, and North Africa; and the sovereign debt crisis in the U.S. and in the Euro zone.

Analyzing the results the Council has achieved against its "road map" we find that it has met its statutory requirements and made progress in organizing and launching the

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[21] Section 120 of Dodd-Frank specifies the procedures that the FSOC shall use to develop a limited set of rules. ANPRs were issued on supervision and regulation of nonbank financial companies and designating financial market utilities (FMUs) as systemically important. NPRs were issued on designating FMUs, implementing the Freedom of Information Act, and requiring supervision and regulation of nonbank financial companies. A final rule was issued on designating FMUs as systemically important. Summaries and details can be found on the FSOC website.

[22] Published studies address prompt corrective action; secured creditor haircuts; implementation of the Volker rule; and the concentration limit on large financial companies. See http://www.treasury.gov/initiatives/fsoc/Pages/studies-and-reports.aspx

Council. The road map does not include all of the statutory provisions from Dodd-Frank, but it does account for the major tasks required under law in the first 18 months of operation. The FSOCs bylaws, policies, and the way that members have conducted themselves suggest an awareness of and commitment to the fundamental principles that we associate with self-governed polycentricism (Table 1). The Chairman and the FSOC staff appear to have followed professional management standards in organizing, convening, and supporting the Council.

The Council has had less success in its staffing and advisory activities, inhibited in part by political contestation and the need to attend to unrelenting crises in the macro-environment. Staffing the Council, the Federal Insurance Office (FIO), and the Office of Financial Research (OFR) has proceeded slowly: The Director of the FIO was staffed in July 2011, the Independent Member with insurance expertise took his place in October 2011, the OFR Director was nominated December 2011, and the position of Director of the Consumer Financial Protection Bureau was filled by a recess appointment in January 2012. Neither the Director of the OFR or the Director of the CFPB have been confirmed by the Senate.

It is customary for organizations in both the private and public sectors to develop operating objectives and plans and to measure performance by results achieved compared to plan. The FSOC roadmap represents the Council's operating objectives and plans and provides a basis for evaluating its initial performance. It includes a total of 48 statutorily required milestones in 13 task areas: The Council is responsible for 5 milestones and member agencies are responsible for the remaining 43 milestones. Thirty-one of the 48 statutory requirements are rulemaking activities, ten require studies or reports to Congress and the remaining milestones concern establishing or consolidating regulatory or advisory offices. Table 3 summarizes results achieved in the planning period: We estimate that as of February 1, 2012, 38 of the 48 milestones have been achieved and 10 have not been achieved: The FSOC has achieved all of its milestones however member agencies are lagging. For detailed descriptions of FSOC member activities in the planning period see Appendices 5-7.

Table 3: Results Achieved Against Statutorily Required Milestones

Key Task Areas	Milestone Achieved	Milestone Not Achieved	FSOC Milestones	Member Agency Milestones	Total Milestones
Monitoring System Risk	2		2		2
Oversight of Large, Interconnected Financial Companies	5			5	5
Systemic FMU, Payment, Clearing, & Settlement Activities					0
Constraining Activities & Size of Financial Institutions	3	1	2	2	4
Resolution Plans & Orderly Liquidation Authority	1			1	1
Consumer Protection - CFPB Standup	2			2	2
Consumer Protection – Regulations	1			1	1
Investor Protection	3			3	3
Governance and Compensation	2	1		3	3
Derivatives Reform	5	4		9	9
Credit Ratings & Securitization	6	1	1	6	7
Hedge Fund Adviser Registration & Oversight	4	2		6	6
Agency Changes	4	1		5	5
TOTALS	38	10	5	43	48

Five: Analyzing Polycentricity

We conduct two further analyses to understand the role of the FSOC in governing the U.S. financial system: We review recommendations of the FSOC in its annual report, and finally, we make a qualitative estimate of the extent to which it conforms with the design principles of polycentric systems.

The FSOCs recommendations to improve stability in the U.S. financial system are contained in its first annual report to Congress (FSOC 2011) and summarized in Appendix 8. In brief, the Council recommends more responsible credit underwriting standards; housing finance reforms, including mortgage servicing standards and servicer compensation; effective implementation of orderly liquidation authority for the largest financial firms; market participant investments to keep pace with infrastructure and technological advances and to conduct heightened due diligence on emerging financial products.

The Council's report is historic: It is the first time in modern American financial history that public regulators have individually and collectively addressed a full range of systemic threats, sought to understand system strengths and vulnerabilities, and recommend collective action to improve stability. In a statement that Council members unanimously adopted and individually signed they take individual and collective responsibility for the contents of the report and its recommendations. While they urge system participants and Congress to fully address the issues and recommendations in the report in order to ensure financial stability and mitigate systemic risk, they do not assume these responsibilities or extend their authority to act in the place of the participants in the system. We find no evidence of centralization of regulatory activity or bureaucratic creep. In our view, the design of the FSOC creates additional information and transparency that increases individual and collective accountability.

A number of commentators in the media and policy communities have expressed concern that the Council will usurp private decision-making and inadvertently create new hazards in the system by over-regulating. However our understanding of the Council's activities, reports, and recommendations suggest that the Council understands the distinct responsibilities and limitations of participants and regulators. Six of the Council's 19 recommendations are directed to market participants including large financial institutions; 2 are directed jointly to market participants and regulators; 9 are directed to Council member agencies and regulators; 1 is directed jointly to the FSOC and a member agency; and 1 is directed to Congress. See Appendix 8 for more detail.

Finally, taking all of the material we have analyzed into consideration, we assess the extent to which the design of the governing institutions of the U.S. financial system conform to the principles we have associated with polycentric systems with and without the FSOC. Recall from Table 1 that we have seven criteria for the assessment of the financial system as a polycentric system. We use these criteria to qualitatively estimate the extent to which the system conforms to the principles of polycentric governance before and after the creation of FSOC using a 4-point scale. Our estimate is based on our review and analysis of the design of the financial system, the FSOC, and the results that the FSOC has thus far reported. A score of 0 indicates that the system does not in our view meet the criterion and a score of 4 indicates that the system does meet the criterion.

The results of our assessment are summarized in Table 4. In our view, the design of the FSOC is consistent with principles of polycentric self-governance and is consistent with the structure of the financial system at micro, meso and macro levels: The FSOC is neither hierarchical nor centralized. The design and conduct of the FSOC addresses each of the unaddressed vulnerabilities in the system albeit in varying degrees. The ongoing challenges for all participants in the system including the FSOC are identifying and checking individuals and groups that seek strategic dominance; understanding and accounting for externalities; improving transparency and information sharing in the system; and developing problem-solving capacities.

Table 4: Assessment of Polycentricity in the U.S. Financial System

Criteria	Score Without FSOC	Score With FSOC	Rationale
1. Multiple autonomous units	●	●	The FSOC does not change the structure of the financial system, which includes millions of users with contractual, commercial, associational, and political participation rights; 50 state public regulatory systems; 9 federal public regulatory systems. Dodd-Frank requires and FSOC recommendations aim to increase risk mitigation actions at the investor level, improving self-governed contracting
2. Equal standing	◔	◑	The system is still vulnerable to strategic dominance: Concentration is increasing in the distribution of wealth and within and among commercial financial services sectors; FSOC checks and balances on Treasury are weak
3. Account for externalities	○	◔	It is not evident that counter party and systemic risks are not yet fully understood, transparent, or mitigated such that the right participants have sufficiently recognized and reserved against contingencies
4. Transparency and information sharing	◔	◑	Information is hidden in the many centers in the system. FSOC design and actions thus far show potential to unlock information and improve transparency: Critical actions include continued inter-agency collaboration and OFR investments in data collection, modeling, and simulation
5. Problem solving capability	◔	◑	Lessons learned from the 2008 crisis and FSOC improves potential but additional investments are needed to improve technical, problem solving, and deliberative capabilities
6. Contestation	◔	◕	FSOC provides a forum and mechanisms for informed private and public debate about financial governance
7.Adaption/Innovation	◑	◕	The FSOC potentially improves capacity for users to adapt and innovate in response to change in the environment by addressing externalities, information deficits, and problem solving capabilities in the system.

Scoring Key (Lowest to Highest): 0 =○; 2 =◑; 3 =◕; 4 =●

Section 6: Summary and Challenges

In this paper we are motivated by recent changes in oversight of the U.S. financial system to develop an institutional analysis of the U.S. financial system. We begin by empirically analyzing the way that assets have been held in the system over the period 1960-2008. We find more than 8 different categories of asset holders including individuals, sophisticated financial enterprises, and governments, and significant change in the structure, size, and economic importance of the system. We use our analysis of asset holding to provide a foundation for empirically analyzing governing institutions. Our institutional analysis identifies four different types of contracting activities - banking, insurance, investment, and trading – and three levels of governing institutions that incorporate relational, trilateral and market arrangements.

Our empirical analysis of the U.S. financial system leads us to hypothesize that it is an example of a what Vincent Ostrom has conceptualized as a polycentric order: A system of political and economic activity that has many self-governed decision-making centers that are formally independent of each other. We extend the concept by identifying principles for polycentric design and conduct an empirical analysis of the institutional foundation of the Financial Stability Oversight Council. We assess the FSOC design against polycentric design principles and conclude that it is not only consistent with polycentric principles, but properly understood and implemented it has the potential to address each of the existing vulnerabilities in the system. Foremost among these challenges are identifying and checking individuals and groups that seek strategic dominance, identifying and addressing the externalities associated with complex activities, improving transparency and information sharing in the system, and keeping pace with evolutionary change.

The Dodd-Frank Act and its provisions related to the Financial Stability Oversight Council are lightening rods for policy debate about the way that Americans can, do, and should govern financial activities. The debate rages on yet it has been poorly informed by theory or evidence about governance.[23] This paper is a modest attempt to bring the work in institutional political economy to bear on the problem of regulating financial activities and it provides a theoretical foundation for further investigations of alternative institutions.

While our analysis does not provide evidence that the FSOC will contribute in a meaningful way to improving the stability of the U.S. financial system, whether it can or does is an empirical question that can be scientifically investigated. For those who are concerned about policy alternatives to address systemic risk and stability issues, our investigation suggests several directions for research.

First, can we better specify and operationalize the design principles associated with polycentric orders? We consider our work in this paper a starting point but wonder if we have comprehensively and persuasively articulated the characteristics that distinguish a polycentric system from a hierarchical or market order. How can we develop more detailed institutional specifications at micro, meso, and macro levels? Which tools and methods in which combinations can we employ to more effectively model these very complex systems?

[23] For recent examples see Elliot and Litan (2011; Van Hoose (2011); and Wallison (2011).

Second, how can we measure performance in a polycentric system and compare it to performance in other types of systems? Which characteristics are most important for stability and risk mitigation? Said somewhat differently, what makes a system resilient and how can we measure the propensity for resilience without enduring actual crises? Are there trade-offs among different characteristics such as competitiveness and stability, efficiency and stability, or innovation and stability? Do risk mitigation strategies at one level of the system impact risk mitigation strategies at other levels in the system?

Third, polycentric orders are an example of what North, Wallis, and Weingast (2009) have described as open access systems. How do these types of systems evolve and change? How do governing rules in different components and at different levels interact to strengthen or weaken stability and risk mitigation? What are the implications of open access?

Finally, a critical difference between self-governed and machine-governed systems is human nature and we have extensive evidence that human nature is strategic as well as fallible.[24] How does behavior differ in polycentric systems? In particular, how can we identify and measure the impact of behaviors that potentially undermine stability such as various forms of perceptual bias, moral hazard, herding, mania, and panic?

We expect that exceedingly vigorous financial regulatory debate will continue: We hope that institutional analysis and a better understanding of polycentric systems will contribute to a more rigorous debate.

[24] For a detailed overview of the nature of human decision-making see Polski (2008).

References

Bureau of Economic Analysis. "Gross Domestic Product by Industry Data." Data tables, April 26, 2011, http://www.bea.gov/industry/gdpbyind_data.htm.

Committee on Homeland Security and Governmental Affairs, Permanent Subcommittee on Investigations. "Wall Street and the Financial Crisis: Anatomy of a Financial Collapse." Washington, D.C.: April 2011. http://hsgac.senate.gov/public/_files/Financial_Crisis/FinancialCrisisReport.pdf.

Cook, Robert. *Oversight of the Financial Stability Oversight Council*: *Testimony before the U.S. House of Representatives Committee on Financial Services Subcommittee on Oversight and Investigations*. 112th Cong., 1st sess., April 14, 2011, http://financialservices.house.gov/media/pdf/041411cook.pdf.

Dodd-Frank Wall Street Reform and Consumer Protection Act. Public Law 203, 111th Cong., July 21, 2010.

Elliot, Douglas J. and Robert E. Litan. "Identifying and Regulating Systemically Important Financial Institutions: The Risks of Under and Over Identification and Regulation." Brookings Institution, January 2011.

Financial Crisis Inquiry Commission. "The Financial Crisis Inquiry Report: The Final Report of the National Commission on the Causes of the Financial and Economic Crisis in the United States." Washington, D.C.: January 2011, http://cybercemetery.unt.edu/archive/fcic/20110310173545/http://c0182732.cdn1.cloudfiles.rackspacecloud.com/fcic_final_report_full.pdf.

Financial Stability Oversight Council. "2011 Annual Report." Washington, D.C.: July 2011, http://www.treasury.gov/initiatives/fsoc/Documents/FSOCAR2011.pdf.

———. "Advance Notice of Proposed Rulemaking Regarding Authority to Designate Financial Market Utilities as Systemically Important." Advance Notice of Proposed Rulemaking, Washington, D.C.: November, 2010, http://www.treasury.gov/initiatives/Documents/VIII%20-%20ANPR%20on%20FMU%20Designations%20111910.pdf.

———. "Advance Notice of Proposed Rulemaking Regarding Authority to Require Supervision and Regulation of Certain Nonbank Financial Companies." Advance Notice of Proposed Rulemaking, Washington, D.C.: October, 2010, http://www.treasury.gov/initiatives/Documents/2010-25321_PI.pdf.

———. "Authority to Designate Financial Market Utilities as Systemically Important." Final Rule, Washington, D.C.: July, 2011, http://www.treasury.gov/initiatives/Documents/Finalruledisclaimer7-18-2011.pdf.

———. "Authority To Designate Financial Market Utilities as Systemically Important." Notice of Proposed Rulemaking, Washington, D.C.: March, 2011, http://www.treasury.gov/initiatives/Documents/FMU%20NPR%20Final.pdf.

———. "Authority to Require Supervision and Regulation of Certain Nonbank Financial Companies." Notice of Proposed Rulemaking, Washington, D.C.: October, 2011, http://www.treasury.gov/initiatives/fsoc/Documents/Nonbank%20Designation%20NPR%20-%20Final%20with%20web%20disclaimer.pdf.

———. "Dodd-Frank Wall Street Reform and Consumer Protection Act Integrated Implementation Roadmap." Washington, D.C.: October 1, 2010, http://www.treasury.gov/initiatives/Documents/FSOC%20Integrated%20Roadmap%20-%20October%201.pdf.

———. "Financial Stability Oversight Council Committee Structure." Washington, D.C.: http://www.treasury.gov/initiatives/Documents/X%20-%20Committee%20Structure%20111910.pdf

———. "Financial Stability Oversight Council Created Under the Dodd-Frank Wall Street Reform and Consumer Protection Act: Frequently Asked Questions." Washington, D.C.: October, 2010, http://www.treasury.gov/initiatives/Documents/FAQ%20-%20FinancialStabilityOversightCouncilOctober2010FINALv2.pdf.

———. "FSOC Budget Information." Washington, D.C.: http://www.treasury.gov/initiatives/fsoc/Documents/6a%20Principles%20Meeting%20Budget%20ONE%20PAGER%20FINAL.pdf.

———. "Proposed Rules to Implement the Freedom of Information Act." Notice of Proposed Rulemaking, Washington, D.C.: March, 2011, http://www.treasury.gov/initiatives/Documents/FOIA%20NPR%20Final.pdf.

———. "Rules of Organization of the Financial Stability Oversight Council." Washington, D.C.: http://www.treasury.gov/initiatives/Documents/FSOCbylaws.pdf.

———. "Transparency Policy for the Financial Stability Oversight Council." Washington, D.C.: http://www.treasury.gov/initiatives/Documents/FSOCtransparencypolicy.pdf.

Geithner, Timothy F. *Financial Stability Oversight Council's Annual Report to Congress: Hearing before the Committee on Banking, Housing, and Urban Affairs.* 112th Cong., 1st sess., October 6, 2011, http://banking.senate.gov/public/index.cfm?FuseAction=Files.View&FileStore_id=ccd40503-2511-4289-977c-3bc3926253aa.

Gensler, Gary. *Oversight of the Financial Stability Oversight Council*: *Testimony before the U.S. House of Representatives Committee on Financial Services Subcommittee on Oversight and Investigations*. 112th Cong., 1st sess., April 14, 2011, http://financialservices.house.gov/media/pdf/041411gensler.pdf.

Goldstein, Jeffrey. *Oversight of the Financial Stability Oversight Council*: *Testimony before the U.S. House of Representatives Committee on Financial Services Subcommittee on Oversight and Investigations*. 112th Cong., 1st sess., April 14, 2011, http://financialservices.house.gov/media/pdf/041411goldstein.pdf.

Huff, John. *Insurance Oversight: Policy Implications for U.S. Consumers, Businesses and Jobs: Testimony Before the Subcommittee on Insurance, Housing and Community Opportunity Committee on Financial Services, United States House of Representatives.* 112th Cong., 1st sess., July 28, 2011, http://financialservices.house.gov/UploadedFiles/072811huff.pdf.

Liang, J. Nellie. *Oversight of the Financial Stability Oversight Council*: *Testimony before the U.S. House of Representatives Committee on Financial Services Subcommittee on Oversight and Investigations*. 112th Cong., 1st sess., April 14, 2011, http://financialservices.house.gov/media/pdf/041411liang.pdf.

Long, Timothy W. *Oversight of the Financial Stability Oversight Council*: *Testimony before the U.S. House of Representatives Committee on Financial Services Subcommittee on Oversight and Investigations*. 112th Cong., 1st sess., April 14, 2011, http://financialservices.house.gov/media/pdf/041411long.pdf.

Madison, James. "The Federalist No. 51." 1788. In Jacob E. Cooke, Ed. *The Federalist.* Middletown, CT: Wesleyan University. 1961.

Murton, Arthur J. *Oversight of the Financial Stability Oversight Council*: *Testimony before the U.S. House of Representatives Committee on Financial Services Subcommittee on Oversight and Investigations*. 112th Cong., 1st sess., April 14, 2011, http://financialservices.house.gov/media/pdf/041411murton.pdf.

North, Douglass C., John Joseph Wallis and Barry R. Weingast. 2009. *Violence and Social Orders: A Conceptual Framework For Interpreting Recorded Human History.* New York, NY: Cambridge University Press.

Ostrom, Vincent. *A Political Theory of a Compound Republic: Designing the American Experiment*, 3rd ed. Lanham: Lexington Books, 2008(a).

———. *The Intellectual Crisis in American Public Administration.* 3rd Edition. Tuscaloosa, AL: The University of Alabama Press. 2008(b)

———. *The Meaning of Federalism: Constituting a Self-Governing Society.* San Francisco: Institute for Contemporary Studies Press, 1994.

———. "Constitutional Level of Analysis: Problems and Prospects." 1979. Chapter 2 in Sabetti, Filippo, Barbara A. Allen, and Mark Sproule-Jones, Eds. *The Practice of Constitutional Development: Vincet Ostrom's Quest to Understand Human Affairs.* Lanham, MD: Lexington Books. 2009.

———. "Polycentricity." Conference Paper, Annual Meeting of the American Political Science Association, Washington, D.C., September 5-9, 1972. Reprinted in: McGinnis, Michael, ed., *Polycentricity and Local Public Economies: Readings from the Workshop in Political Theory and Policy Analysis.* Ann Arbor: University of Michigan Press, 1999.

Ostrom, Vincent and Barbara Allen (Ed). *The Quest to Understand Human Affairs. Volume I: Natural Resources Policy and Essays on Community and Collective Choice*. Lanham, MD: Lexington Books. 2011.

———. *The Quest to Understand Human Affairs. Volume II: Essays on Collective, Constitutional, and Epistemic Choice*. Lanham, MD: Lexington Books. 2012.

Ostrom, Vincent, Charles Tiebout, and Robert Warren. "The Organization of Government in Metropolitan Areas: A Theoretical Inquiry." *The American Political Science Review* 55, no. 4 (1961), http://www.jstor.org/stable/1952530.

Polski, Margaret. *Systemic Risk and the U.S. Financial System*. Mercatus on Policy, Arlington, VA: Mercatus Center at George Mason University, 2009(a).

———. *Bank Risk Management*. Mercatus on Policy, Arlington, VA: Mercatus Center at George Mason University, 2009(b).

———. *Wired For Survival: The Rational and Irrational Choices We Make From the Gas Pump to Terrorism.* New York: Financial Times Press, 2008.

———. *The Invisible Hands of U.S. Commercial Banking Reform: Private Action and Public Guarantees.* The Netherlands: Kluwer Academic Publishers, 2003.

Polski, Margaret and Elinor Ostrom. "An Institutional Framework for Policy Analysis and Design." Workshop in Political Theory and Policy Analysis Working Paper W98-27. Indiana University, Bloomington, IN, 1999.

Sabetti, Filippo, Barbara A. Allen, and Mark Sproule-Jones. Eds. *The Practice of Constitutional Development: Vincent Ostrom's Quest to Understand Human Affairs.* Lanham, MD: Lexington Books. 2009.

Sproule-Jones, Mark, Barbara Allen, and Filippo Sabetti. Eds. *The Struggle to Constitute and Sustain Productive Orders: Vincent Ostrom's Quest to Understand Human Affairs.* Landham, MD: Lexington Books. 2008.

VanHoose, David. "Systemic Risks and Macroprudential Bank Regulation: A Critical Appraisal." *Policy Briefs*, Networks Financial Institute at Indiana State University, Terre Haute, IN, April 2012.

Wallison, Peter J. "Magical Thinking: The Latest Regulation from the Financial Stability Oversight Council." *Financial Services Outlook*, American Enterprise Institute for Public Policy Research, Washington, D.C., October-November 2011.

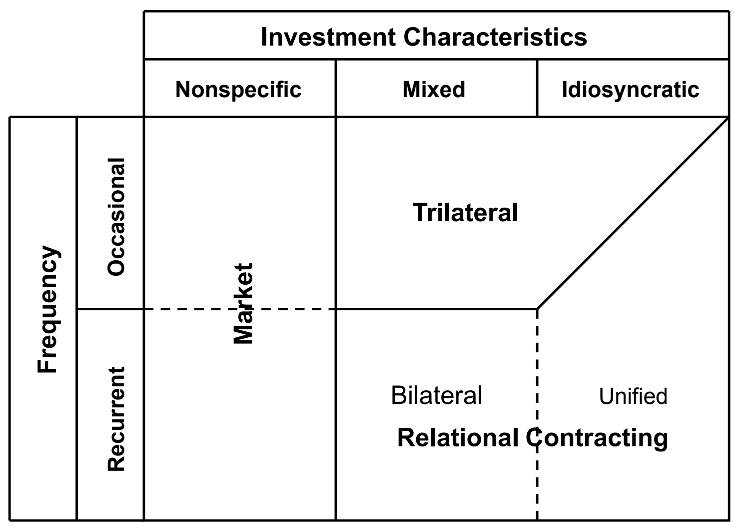
Webel, Baird. "The Dodd-Frank Wall Street Reform and Consumer Protection Act: Issues and Summary." CRS Report for Congress. Washington, DC: Congressional Research Service. July 29, 2010.

Williamson, Oliver E. 1996. *The Mechanisms of Governance.* New York, NY: Oxford University Press.

——— *The Economic Institutions of Capitalism.* New York: Free Press, 1985

Appendix 1: Typology of Contracting Institutions in Free Market Economies

Source: Williamson (1985)



Appendix 2: Appointment and Terms of FSOC Members

Member Title	Type of Appointment	Length of Term
Voting Members		
Secretary of Treasury	Appointment and Confirmation	Serves at the pleasure of the president
Comptroller of Currency	Appointment and Confirmation	5 years
Chair Board of Governors Federal Reserve	Appointment and Confirmation	14 years
Director Consumer Financial Protection Bureau	Appointment and Confirmation	5
Chair Securities and Exchange Commission	Appointment and Confirmation	5 years
Chair Federal Deposit Insurance Corporation	Appointment and Confirmation	5 years
Chair Commodity Futures Trading Commission	Appointment and Confirmation	5 years
Director Federal Housing Finance Agency	Appointment and Confirmation	5 years
Chair National Credit Union Administration Board	Appointment and Confirmation	6 years
Independent Member	Appointment and Confirmation	6 years
Non-Voting Members		
Director Office of Financial Research	Appointment and Confirmation	6 years
Director Federal Insurance Office	Appointed by Secretary of Treasury	SES
State Insurance Commissioner	Designated by state insurance commissioners	2 years
State Banking Supervisor	Designated by state banking supervisors	2 years
State Securities Commissioner or similar	Designated by state securities commissioners	2 years

Appendix 3: Summary of Meetings 10/1/10 to 2/1/12

Source: http://www.treasury.gov/initiatives/fsoc/Pages/council-meeting-minutes.aspx

Date:	Type of Meeting:	Length of Meeting:	Topics of Discussion:	Decisions Approved:
10/1/10	In-person	2 hours	• Systemic Risk Monitoring Process • Criteria for Designating Nonbank Financial Firms for Supervision • The Bylaws of the Council • ANPR on designating nonbank financial firms for supervision • Publication of a request for comments regarding implementation of the prohibition on proprietary trading and sponsoring and investing in private equity and hedge funds • Transparency policy of the Council	• Rules of Organization of the Council • ANPR seeking comments regarding the criteria and analytical framework for designation of nonbank financial firms • Request for comments regarding study on implementation of the prohibition on proprietary trading and sponsoring and investment in private equity and hedge funds • Transparency Policy of the Council • Initial budget
11/23/10	In-person	~1.5 hours	• Mortgage Services and Foreclosure Issues • Section 619 (Volker Rule) • ANPR on Designations of Financial Market Utilities • ANPR regarding designation of financial market utilities as systemically important • The Council committee structure	• ANPR regarding Designation of Financial Markets Utilities • Committee structure and appointing a chairperson of the Deputies Committee
1/18/11	In-person	~2 hours	• Mortgage Servicing and Foreclosure Issues • Systemic Risk Monitoring Process • Section 619 Study (Volcker Rule) • Designations of Financial Markets Utilities • Section 622 Study (Concentration Limit)	• Study and Recommendations required by Section 619 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Volcker Rule) • Study and Recommendations required by Section 622 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Concentration Limit) • NPR regarding designations of nonbank financial companies

Date:	Type of Meeting:	Length of Meeting:	Topics of Discussion:	Decisions Approved:
3/17/11	In-person	2 hours	• Macro-environment Overview (Japan and Middle East/North Africa) • European Sovereign Fiscal and Banking Sector • Money Market Mutual Funds • Council of Inspectors General for Financial Oversight • NPR on Designations of Financial Market Utilities • NPR on FOIA	• NPR concerning the Designation of Certain Financial Market Utilities • NPR concerning the Freedom of Information Act (FOIA)
6/24/11	In-person	~2 hours	• Macro-environment Overview (Housing Outlook, Commodities Markets Volatility, and U.S. Fiscal Issues) • FSOC Annual Report • Tri-Party Repo Market Reform • Designations of Nonbank Financial Companies	NA
7/13/11	Teleconference	~20 minutes	•FSOC Annual Report	NA
7/18/11	In-person	~2 hours	• Macro-environment Overview and the FSOC Annual Report • Designations of Nonbank Financial Companies • Enhanced Prudential Standards • Final Rule Regarding Designations of Financial Market Utilities • Secured Creditor Haircut Study	• Final Rule concerning the Designation of Certain Financial Market Utilities • Study Required by Section 215 of the Dodd-Frank Wall Street Reform and Consumer Protection Act • Annual Report
8/8/11	Teleconference	15 minutes	• Market developments in light of increased market volatility and risk aversion. • Update on market functioning with respect to financial markets and entities within member respective jurisdictions	NA

Date:	Type of Meeting:	Length of Meeting:	Topics of Discussion:	Decisions Approved:
9/15/11	Teleconference	20 minutes	• Market developments in light of increased market volatility and risk aversion. • Update on market functioning with respect to financial markets and entities within member respective jurisdictions	NA
10/31/11	Teleconference	~30 minutes	•Developments regarding MF Global	NA
11/11/11	Teleconference	~25 minutes	•European market developments	NA
12/5/11	In-person	2 hours	•Updates on macro-environment overview in Europe, housing market issues, Council efforts to increase Dodd-Frank coordination and evaluation of FMUs for potential designation	NA
12/21/11	Teleconference	~15 minutes	•Advancement of Certain FMUs to Stage 2 of the Designation Process •Assessment Schedule to Fund the Financial Research Fund •Report on Prompt Corrective Action	•The advancement of an initial set of FMUs to stage 2 of the evaluation process •NPR relating to assessments •Report on Prompt Corrective Action
2/1/12	In-person	~2 hours and 15 minutes	•Update on macro-environment in Europe, Dodd-Frank Act and 2012 Annual Report • Money market funds reform efforts •Public comments on NPR and proposed guidance on Nonbank Financial Company Designations	NA

Appendix 4: FSOC Presentations Through 2/1/12

1. Mortgage Services and Foreclosure Issues - 2 agencies: Treasury; HUD

2. Section 619 (Volker Rule) - 1 agency: Treasury

3. ANPR on Designations - 4 agencies: Treasury; Federal Reserve; CFTC; SEC

4. Mortgage Servicing - 7 agencies: OCC; DOJ; FHA; FHFA; Federal Reserve; NY Federal Reserve; California Department of Financial Institutions

5. Systemic Risk Monitoring - 4 agencies: Federal Reserve; FDIC; SEC; CFTC

6. Section 619 (Volker Rule) - 3 agencies: Treasury; SEC; OCC

7. Designations of FMUs - 3 agencies: Treasury; FDIC; Federal Reserve

8. Section 622 - 2 agencies: Federal Reserve; Federal Reserve; Treasury

9. Macro-environment - 2 agencies: Treasury; Federal Reserve

10. European Sovereign Fiscal Situation -2 agencies: Treasury; Federal Reserve; Federal Reserve

11. Money Market Mutual Funds - 1 agency: SEC

12. Council of Inspectors General for FSOC - 1 agency: Council of Inspectors General for Financial Oversight

13. Designations of FMUs - 3 agencies: Treasury; Federal Reserve; CFTC

14. Macro-environment - 3 agencies: CFTC; Treasury; Federal Reserve

15. Annual Report - 1 agency: Treasury

16. Tri-Party Repo Market Reform - 1 agency: NY Federal Reserve

17. Designations of Nonbank Financial Companies -3 agencies: Treasury: Federal Reserve; FDIC

18. Annual Report - 1 agency: Treasury

19. Macro-environment - 3 agencies: Federal Reserve; FDIC; Treasury

20. Designations of Nonbank Financial Companies- 3 agencies: Treasury; FDIC; Federal Reserve

21. Enhanced Prudential Standards - 1 agency: Federal Reserve

22. Final Rule on FMUs - 3 agencies: Treasury; Federal Reserve; CFTC

23. Haircut Study - 2 agencies: Treasury; FDIC

24. Macro-environment - 5 agencies: Treasury; OCC; FIO; Federal Reserve; SEC

25. MMMF Reform Update -3 agencies: SEC; Federal Reserve; Treasury

26. Annual Report Recommendations - 1 agency: Treasury

27. Enhanced Prudential Standards - 1 agency: Federal Reserve

28. Designations of Nonbank Financial Companies - 3 agencies: Treasury; FDIC; Federal Reserve

Appendix 5: List of Statutory Deadlines Outlined in the Dodd-Frank Roadmap

Link to Roadmap: http://www.treasury.gov/initiatives/Documents/FSOC%20Integrated%20Roadmap%20-%20October%201.pdf

FSOC Duties

1. First Annual Report to Congress

Stand-up Office of Financial Research (OFR)

2. Setup HR and Management Systems for OFR

Heightened Standards / Consolidated Supervision (FRB)

3. Rulemaking regarding Capital and Leverage
4. Rulemaking regarding Liquidity Requirements
5. Rulemaking regarding Risk Management
6. Rulemaking regarding Credit Exposure Limits
7. Rulemaking regarding Annual Stress Test

Activity Limits

8. FSOC Study on Limits on Proprietary Trading and Private Equity / Hedge Fund Sponsorship and Investments
9. Agency Rulemaking regarding Limits on Proprietary Trading and Private Equity / Hedge Fund Sponsorship and Investments (Appropriate Federal Banking Agencies, CFTC, and SEC)

Size Limits

10. FSOC Study on Concentration Limit
11. Agency Rulemaking regarding Concentration Limit (FRB)

Resolution Plan

12. Agency Rulemaking regarding Resolution Plan (FRB and FDIC jointly)

CFPB Standup

13. Plan and Develop Bureau Functions
14. Planning and Transfers of Employees from Existing Agencies as Jointly Agreed with Each Agency

Mandated Projects

15. Remittance Transfers (CFPB)

Investor Protection

16. Study and Report to Congress regarding Standards of Conduct for Investment Advisers and Broker Dealers (SEC)

Enforcement

17. Finalize Rule regarding Whistleblower Protections (SEC)

Municipal Securities

18. Interim Final Rule regarding Registration of Advisers (SEC)

Governance and Compensation

19. Final Rule regarding Governance Rules for Exchanges, SEFs and Central Clearing Parties (SEC and CFTC)
20. Final Rule regarding Independent Compensation Committees (SEC)
21. Rulemaking regarding Disclosure and Rules on Incentive Compensation Arrangements (FRB, OCC, FDIC, OTS, SEC, FHFA)

Market Oversight Rules (CFTC and SEC)

22. Final Rule regarding Joint Definitions
23. Final Rule regarding Transaction and Real Time Reporting
24. Final Rule regarding Swap Trading and Clearing
25. Final Rule regarding Position Limits (CFTC)

Appendix 5 Cont'd

26. Final Rule regarding Position Limits (SEC)
    Enforcement
27. Final Rule regarding Enhanced Enforcement (Anti-Manipulation)
    Business Conduct and Prudential Rules
28. Final Rule regarding Conduct of Dealers and Major Market Participants (CFTC and SEC)
29. Final Rule regarding Capital & Margin for Entities w/o Prudential Regulator (CFTC and SEC)
30. Final Rule regarding Capital &Margin for Entities w/ Prudential Regulator (Farm Credit Administration, FDIC, FHFA, FRB, and OCC)
    Credit Rating Agencies
31. Final Rule regarding Disclosures and Due Diligence (SEC)
32. Final Rule regarding Internal Controls and Conflicts of Interest (SEC)
    Securitization
33. FRB Study regarding Risk Retention
34. FSOC Study regarding Risk Retention
35. Rulemaking regarding Risk Retention (FDIC, FHFA, FRB, HUD, OCC, and SEC)
36. Final Rule regarding Review of Underlying Assets and Disclosures (SEC)
37. Final Rule regarding Reps and Warranties (SEC)
    Adviser Registration
38. Final Rule regarding Reporting Requirements Including Systemic Risk (CFTC/SEC)
39. Final Rule regarding Defining Exemptions (VC, Family Office) (SEC)
40. Final Rule regarding Rules & Reporting for Mid-Size Advisers to Private Funds (SEC)
    Monitoring & Reporting
41. Annual Report to Congress on Use of Data Collected (SEC)
42. Studies regarding Short Selling and Real Time Reporting (SEC)
    Accredited Investor
43. Final Rule regarding Excluding "Bad Actors" in Private Offerings (SEC)
    Implementation Plan
44. Joint Implementation Plan to Congress (FDIC, FRB, OCC, OTS)
45. Identification of OTS Rules That Will Continue To Be Enforced (FDIC, FRB, OCC)
    Integration
46. Planning for Integration of Employees, Supervision, and Systems (FDIC, OCC, OTS)
    Reforms of SEC
47. Report by Independent Consultant regarding Structure
    Office of Minority and Women Inclusion (CFPB, FDIC, FHFA, FRB, Federal Reserve Banks, NCUA, OCC, SEC, Treasury)
48. Office Establishment

Appendix 5 Cont'd

**The numbers in the table below correspond to the numbers from the list above. The deadline date is the statutory deadline date taken from the Roadmap. The next two columns indicate whether or not the goal was achieved and if it was achieved by the deadline provided. If the goal was to produce a report or a rule, a link is provided to that report or rule (or ANPR, NPR, or PR if the rule has not been finalized). Links to news stories or press releases that corroborate the claims are also provided. If a requirement was tasked to multiple agencies and not all agencies met that requirement, then the goal is not counted as achieved.

No.:	Deadline Date:	Achieved:	OnTime:	Links/Notes:
1	July 2011	Yes	Yes	http://www.treasury.gov/initiatives/fsoc/Pages/annual-report.aspx
2	July 2011	Yes	No	http://www.treasury.gov/initiatives/wsr/ofr/Documents/OFRStrategicFramework.pdf)
3	January 2012	Yes	Yes	http://www.gpo.gov/fdsys/pkg/FR-2012-01-05/pdf/2011-33364.pdf
4	January 2012	Yes	Yes	http://www.gpo.gov/fdsys/pkg/FR-2012-01-05/pdf/2011-33364.pdf
5	January 2012	Yes	Yes	http://www.gpo.gov/fdsys/pkg/FR-2012-01-05/pdf/2011-33364.pdf
6	January 2012	Yes	Yes	http://www.gpo.gov/fdsys/pkg/FR-2012-01-05/pdf/2011-33364.pdf
7	January 2012	Yes	Yes	http://www.gpo.gov/fdsys/pkg/FR-2012-01-05/pdf/2011-33364.pdf
8	January 2012	Yes	Yes	http://www.treasury.gov/initiatives/Documents/Volcker%20sec%20%20619%20study%20final%201%2018%2011%20rg.pdf
9	October 2011	No	No	No information.
10	January 2011	Yes	Yes	http://www.treasury.gov/initiatives/Documents/Study%20on%20Concentration%20Limits%20on%20Large%20Firms%2001-17-11.pdf
11	October 2011	No	No	No information.
12	January 2012	Yes	Yes	No information.
13	July 2011	Yes	Yes	http://www.treasury.gov/initiatives/fsoc/Documents/FSOCAR2011.pdf P.122
14	October 2011	Yes	Yes	http://dealbook.nytimes.com/2012/01/03/for-wall-street-overseer-progress-comes-at-a-slow-crawl/?scp=1&sq=ofr&st=cse
15	January 2013	Yes	Yes	http://www.consumerfinance.gov/report/report-on-remittance-transfers/
16	January 2011	Yes	Yes	http://www.sec.gov/news/studies/2011/913studyfinal.pdf
17	April 2011	Yes	No	http://www.sec.gov/rules/final/2011/34-64545.pdf
18	September 2010	Yes	Yes	http://www.sec.gov/rules/interim/2010/34-62824.pdf
19	January 2011	Yes	Yes	http://www.sec.gov/rules/final/2011/34-63723fr.pdf
20	July 2011	No	No	http://www.sec.gov/rules/proposed/2011/33-9203.pdf
21	April 2011	Yes	Yes	http://www.occ.gov/news-issuances/federal-register/76fr21170.pdf)
22	July 2011	Yes	No	http://www.cftc.gov/ucm/groups/public/@lrfederalregister/documents/file/2012-10562a.pdf)
23	July 2011	Yes	No	http://www.cftc.gov/ucm/groups/public/@lrfederalregister/documents/file/2011-33173a.pdf)
24	July 2011	Yes	Yes	http://www.cftc.gov/ucm/groups/public/@lrfederalregister/documents/file/2011-18663a.pdf)
25	January 2011	Yes	No	http://www.cftc.gov/ucm/groups/public/@lrfederalregister/documents/file/2011-28809a.pdf
26	July 2011	No	No	No information.
27	April 2011	Yes	No	http://www.cftc.gov/ucm/groups/public/@lrfederalregister/documents/file/2011-17549a.pdf
28	July 2011	Yes	No	http://www.cftc.gov/ucm/groups/public/@lrfederalregister/documents/file/2012-5317a.pdf)
29	July 2011	No	No	http://www.cftc.gov/ucm/groups/public/@lrfederalregister/documents/file/2011-10881a.pdf
30	July 2011	No	No	http://www.fdic.gov/regulations/laws/federal/2011/11proposedAD79.pdf
31	July 2011	Yes	Yes	http://www.sec.gov/rules/final/2011/33-9175fr.pdf)
32	July 2011	No	No	http://www.sec.gov/rules/proposed/2011/34-65355.pdf
33	October 2010	Yes	Yes	http://www.federalreserve.gov/boarddocs/rptcongress/securitization/riskretention.pdf
34	January 2011	Yes	Yes	http://www.treasury.gov/initiatives/wsr/Documents/Section%20946%20Risk%20Retention%20Study%20%20(FINAL).pdf

Appendix 5 Cont'd

No.	Deadline Date	Achieved	OnTime	Links/Notes:
35	April 2011	Yes	Yes	http://www.fdic.gov/regulations/laws/federal/2011/11proposedAD74.pdf)
36	January 2011	Yes	Yes	http://www.sec.gov/rules/final/2011/33-9176.pdf
37	January 2011	Yes	Yes	http://www.sec.gov/rules/final/2011/33-9175fr.pdf)
38	July 2011	Yes	No	http://www.sec.gov/rules/final/2011/ia-3308.pdf
39	July 2011	Yes	Yes	http://www.sec.gov/rules/final/2011/ia-3222.pdf
40	July 2011	Yes	Yes	http://www.sec.gov/rules/final/2011/ia-3221.pdf
41	July 2011	No	No	No information.
42	July 2011	Yes	No	http://www.sec.gov/rules/other/2011/34-64383.pdf
43	July 2011	No	No	http://www.sec.gov/rules/proposed/2011/33-9211.pdf
44	January 2011	Yes	Yes	http://www.occ.gov/publications/publications-by-type/other-publications-reports/pub-other-joint-implementation-plan.pdf
45	March 2011	Yes	Yes	http://www.fdic.gov/news/board/14june2011no2.pdf
46	July 2011	Yes	Yes	http://www.occ.gov/news-issuances/news-releases/2011/nr-occ-2011-95a.pdf
47	July 2011	Yes	Yes	http://www.sec.gov/news/studies/2011/967study.pdf
48	January 2011	No	No	No information.
Total=		38	29	

Appendix 6: Statutory Deadlines by Agency

Agency/Institution	Number of Requirements	Number Met	Number Met on Time
FSOC	4	4	4
OFR	1	1	0
FRB	13	11	11
CFTC	10	8	2
SEC	25	17	11
FDIC	7	6	6
CFPB	4	3	3
OCC	7	5	5
OTS	2	3	3
FHFA	4	2	2
Farm Credit Admin	1	0	0
HUD	1	1	1
Federal Reserve Banks	1	0	0
NCUA	1	0	0
Treasury	1	0	0
Other	1	1	1

*Since many of the requirements were tasked to more than one agency, there total number of requirements will exceed the actual total number of requirements. An independent consultant was charged with one of the requirements, hence the “Other” category. If a requirement was tasked to multiple agencies and not all agencies met that requirement, then the goal is not counted as achieved.

Appendix 7: Deadlines by Type of Activity

Type of Activity	**Number of Milestones**
Rulemaking	31
Studies or Reports to Congress	10
Establishing/Consolidating Regulatory/Advisory Offices	7
Total	48

Appendix 8: FSOC Annual Report Recommendations

Action Items	**Who**
Construct robust capital, liquidity, and resolution plans	Large financial institutions
Improve capital levels and liquidity risk profiles consistent with no government assistance and transition to new global standards	Large financial institutions
Enhance ongoing supervisory attention	Member agencies
Determine whether market dynamics rise to a level that merits a regulatory response	Member agencies
Measure and mitigate exposure to a range of expected and unexpected interest rate scenarios	Market participants
Maintain discipline in credit underwriting standards through robust due diligence practices and processes	Credit Underwriters
Employ due diligence for emerging financial products	Market participants
Update frameworks and operational policies to keep pace with competitive, technological, and regulatory market structure developments	Market participants and regulators
Promote market integrity, efficiency, and competition	Market participants and regulators
Eliminate most intraday credit exposure and reform collateral practices in the tri-party repo market	Market participants
Ensure that the Tri-Party Repo Infrastructure Reform Task Force meets its commitments as soon as possible	Regulators
Pursue reforms to reduce money market mutual funds' (MMFs) susceptibility to runs	FSOC; SEC
Establish national mortgage servicing standards and promote alternative servicer compensation models	Regulators
Coordinate the review of flaws of the current mortgage servicing compensation model	FHFA; HUD
Strengthen housing finance system and develop framework for return of private capital	Member agencies; HUD
Pass responsible legislation to reform the housing finance system	Congress
Coordinate and implement financial regulatory reform	Member agencies
Increase quality and scale of resources dedicated to financial oversight	Member agencies
Work with international counterparts in G20 to implement key global reforms including capital & liquidity standards; supervision of globally active systemically important banks; harmonize requirements for trading derivatives; principles for oversight of financial infrastructure	Member agencies