April 16, 2024

The Honorable Patrick McHenry
Chair
House Committee on Financial Services
2129 Rayburn HOB
Washington, DC 20515

The Honorable Maxine Waters
Ranking Member
House Committee on Financial Services
4340 O'Neill HOB
Washington, DC 20515

Dear Chair McHenry and Ranking Member Waters:

The undersigned six organizations strongly oppose any attempts to undermine the Financial Stability Oversight Council's (FSOC) authority to carry out its systemic risk responsibilities by rescinding its nonbank designation procedures.[1] It is critical that the FSOC continue to monitor and designate nonbank institutions that can pose systemic risk to the entire financial system, as was the case with American International Group during the 2008 financial crisis. Congressman French Hill of Arkansas introduced legislation (H.J.Res.120) to nullify the FSOC's new guidance on the process for designating nonbanks as systemically important. If passed, this would undermine the FSOC's ability to designate and oversee nonbanks as systemically risky, which would create a significant obstacle to its ability to prevent nonbanks from spreading financial contagion across the financial system.

The FSOC has established procedures in its nonbank designation guidance to assess whether to designate a nonbank financial company as systemically important. The current guidance was unanimously approved in 2023 and restored FSOC's authority to designate a nonbank as systemically important. The 2023 guidance established a durable process to review nonbanks' potential designation that fulfills the original intent of Dodd-Frank section 113 to determine if "a nonbank financial company's material financial distress — or the nature, scope, size, scale, concentration, interconnectedness, or mix of its activities — could pose a threat to U.S. financial stability." Nonbank firms that are designated as systemically important are subject to supervision across their consolidated businesses by the Federal Reserve under enhanced prudential standards.

H.J.Res.120 would stop the FSOC's work to implement the nonbank designation guidance. This would grant the largest and riskiest financial players free reign to take on outsized risks that could spread through the entire financial system, exacerbate the likelihood and the severity of financial shocks, and endanger the public, especially Black and Latine families that bear the disproportionate economic impact of financial

[1] Financial Stability Oversight Council. "FSOC Approves Analytic Framework for Financial Stability Risks and Guidance on Nonbank Financial Company Determinations." November 3, 2023.

crises. The largest banks and nonbanks have also taken on novel risks[2] related to artificial intelligence and crypto activities that have grown dramatically in recent years and make the financial system even more vulnerable to severe crises.

The largest nonbanks have opposed being considered and designated as systemically important. The proposed legislation could embolden nonbanks to pursue riskier activity without any accountability to the customers, clients, and investors they serve. The proposal would hamper the ability of the FSOC to monitor nonbank firms that could pose real risks to the broader financial system and the economy.

We urge members of Congress to oppose H.J.Res. 120 and unequivocally support the FSOC's authority to designate nonbanks as systemically important. The FSOC's designation authority is essential for its ability to assess systemic risk, and where necessary, establish oversight of firms that have the potential to propagate and amplify financial shocks throughout the economy, thereby posing real risks of another financial crisis.

Thank you for your attention to this matter. We look forward to your support in this important fight for robust systemic risk oversight of nonbanks.

Sincerely,

Americans for Financial Reform Education Fund
Consumer Action
Institute for Agriculture and Trade Policy
Public Citizen
Rise Economy (formerly California Reinvestment Coalition)
20/20 Vision

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[2]Board of Governors. "Testimony on Innovation." Michael S. Gibson, Director, Division of Supervision and Regulation Before the Subcommittee on Digital Assets, Financial Technology and Inclusion, Committee on Financial Services, U.S. House of Representatives.