



# Audit Report



OIG-15-043

FSOC and OFR Data Requests Are Not Duplicative

August 26, 2015

Office of  
Inspector General

Department of the Treasury



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## Abbreviations

Dodd-Frank Act	Dodd-Frank Wall Street Reform and Consumer Protection Act
FMU	financial market utility
FRB	Board of Governors of the Federal Reserve System
FSOC	Financial Stability Oversight Council
OFR	Office of Financial Research
OIG	Treasury Office of Inspector General



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*The Department of the Treasury  
Office of Inspector General*

August 26, 2015

Jacob J. Lew  
Secretary of the Treasury  
Chairperson, Financial Stability Oversight Council

Richard Berner  
Director, Office of Financial Research

This report presents the results of our review of data reporting required by the Financial Stability Oversight Council (FSOC) and the Office of Financial Research (OFR). We performed this review in response to the House Report 113-508 on the Financial Services and General Government Appropriations Bill, 2015. The House Report was incorporated by reference into the Consolidated and Further Continuing Appropriations Act, 2015, which was passed on December 16, 2014. The House Report included the following directive for our office:

“Duplicative Reporting Requirements. – The Committee is concerned the Financial Stability Oversight Council (FSOC) and the Office of Financial Research (OFR) may be imposing duplicative and burdensome data collection requirements on the institutions they oversee. Therefore, the Committee directs the Treasury Office of Inspector General (OIG) to investigate whether the data reporting required by FSOC and OFR from financial and nonfinancial institutions, or any related entities that FSOC regulates or oversees, is duplicative of data required by other regulators and burdensome. The OIG is directed to report to the Committee within 180 days of enactment of

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this Act. FSOC, its member agencies, and OFR should be focused on improving the quality and scope of financial data available to regulators and the public, as well as collaborating with the financial services industry and financial regulators to help identify redundant and costly reporting requirements for financial firms while ensuring the security of this data.”<sup>1</sup>

Consistent with this directive, our audit objective was to determine whether the data reporting required by FSOC and OFR from financial companies, or any related entities, is duplicative of data required by other regulators and burdensome. With respect to the directive in the House Report, we note the provision of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) that created FSOC does not provide FSOC the authority to regulate financial companies or any related entities.<sup>2</sup>

To accomplish our objective, we interviewed FSOC and OFR officials, representatives from nonbank financial companies designated by FSOC to be supervised by the Board of Governors of the Federal Reserve System (FRB),<sup>3</sup> representatives from financial market utilities (FMUs) designated by FSOC as systemically important,<sup>4</sup> and officials from those companies’ primary financial regulatory agencies. We also reviewed relevant guidance and documentation from FSOC, OFR, and the designated companies. The scope of our review included FSOC’s designation activities through the designation of MetLife, Inc., on December 18, 2014. See Appendix 1 for a more detailed description of our audit scope and methodology.

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<sup>1</sup> The due date for our report based on the directive was June 16, 2015. In letters to the interested Congressional committees dated June 1, 2015, we advised Congress that our work had taken longer than expected and that we would provide our report by August 28, 2015.

<sup>2</sup> For this report and in line with the Dodd-Frank Act, we use the term “financial companies” to refer collectively to (1) bank holding companies; (2) nonbank financial companies as defined in Title I, Financial Stability, Subtitle A, Financial Stability Oversight Council; (3) financial companies as defined in Title I, Subtitle B, Office of Financial Research; and (4) financial market utilities as defined in Title VIII, Payment, Clearing, and Settlement Supervision. The term “nonfinancial institution” is not used in the Act.

<sup>3</sup> A nonbank financial company is a domestic or foreign company that is predominantly engaged in financial activities other than bank holding companies and certain other types of firms.

<sup>4</sup> FMUs are systems that provide the essential infrastructure for transferring, clearing, and settling payments, securities, and other financial transactions among financial institutions or between financial institutions and the system.

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In brief, we found that (1) data reporting required or requested by FSOC and OFR was not duplicative of data required by the primary financial regulatory agencies or burdensome for financial companies, and (2) FSOC and OFR followed applicable guidance on requesting data directly from a financial company.

We are not making any recommendations to FSOC or OFR as a result of our audit. We provided a draft of this report to FSOC and OFR for their review. In a written response, which is included as Appendix 2, FSOC and OFR did not provide specific comments on the report contents.

## Background

The Dodd-Frank Act, enacted in July 2010, established FSOC to create joint accountability for identifying and responding to potential threats to the stability of the nation's financial system. By creating FSOC, Congress recognized that protecting financial stability would require the collective engagement of the entire financial regulatory community. FSOC comprises 10 voting members and 5 nonvoting members and brings together the expertise of Federal financial regulators, state regulators, and an insurance expert appointed by the President with Senate confirmation.

The purposes of FSOC are to:

- identify risks to the financial stability of the United States that could arise from the material financial distress or failure, or ongoing activities, of large, interconnected bank holding companies or nonbank financial companies, or that could arise outside the financial services marketplace;
- promote market discipline by eliminating expectations of the part of shareholders, creditors, and counterparties of such companies that the Government will shield them from losses in the event of failure; and
- respond to emerging threats to the stability of the United States financial system.

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The Dodd-Frank Act also established OFR within the Department of the Treasury. OFR's mission is to support FSOC, its member agencies, and the public by improving the quality, transparency, and accessibility of financial data and information; by conducting and sponsoring research related to financial stability; and by promoting best practices in risk management. More specifically, OFR supports FSOC and member agencies by:

- collecting data on behalf of FSOC and providing such data to FSOC and member agencies
- standardizing the types and formats of data reported and collected
- performing applied research and essential long-term research
- developing tools for risk measurement and monitoring
- performing other related services
- making the results of the activities of OFR available to financial regulatory agencies
- assisting such member agencies in determining the types and formats of data authorized by the Dodd-Frank Act to be collected by such member agencies

### **Nonbank Financial Companies**

Title I of the Dodd-Frank Act, authorizes FSOC to require FRB supervision for nonbank financial companies that could pose a threat to the financial stability of the United States in the event of their material financial distress, or because of their activities. FSOC is also authorized to request the submission of periodic and other reports from any nonbank financial company to assess the extent to which the company poses a threat to the financial stability of the United States. In this regard, Title I requires FSOC to coordinate first with the appropriate financial regulatory agency to obtain the information. FSOC published a final rule and interpretive guidance on April 11, 2012, regarding the determination of nonbank financial companies to be subject to FRB supervision, which included a three-stage designation process.

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According to the final rule, in stage one, FSOC applies uniform quantitative thresholds to identify nonbank financial companies that merit company-specific evaluation. During this stage, FSOC will rely solely on information available through existing public and regulatory sources. In stage two, the companies identified in the first stage will be analyzed and prioritized based on a wide range of quantitative and qualitative information available to FSOC primarily through public and regulatory sources. FSOC will also begin the consultation process with the primary financial regulatory agency. In stage three, the companies selected for additional review will receive notice that they are being considered for supervision by FRB and will be subject to an in-depth evaluation.<sup>5</sup> Stage three involves the evaluation of information collected directly from the nonbank financial company in addition to the information considered during stages one and two.

FSOC has voted to designate the following nonbank financial companies:

- American International Group, Inc., on July 8, 2013
- General Electric Capital Corporation, Inc., on July 8, 2013
- Prudential Financial, Inc., on September 19, 2013
- MetLife, Inc., on December 18, 2014

### **Financial Market Utilities**

Title VIII of the Dodd-Frank Act authorizes FSOC to designate FMUs as systemically important if it finds the failure or disruption to the functioning of the FMU could create or increase the risk of significant liquidity or credit problems spreading among financial institutions or markets, thereby threatening the stability of the U.S. financial system. Title VIII also authorizes FSOC to prescribe rules and issue orders to administer its authority for the FMU designation process. FSOC published the final rule on July 27, 2011, which included a two-stage designation process described in the notice of

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<sup>5</sup> FSOC adopted supplemental procedures in February 2015 that provides for earlier notification to nonbank financial companies under consideration. Pursuant to those supplemental procedures, FSOC is to notify any nonbank financial company that comes under active review in stage two and begin the consultation process with the primary financial regulatory agency. In stage three, the companies selected for additional review will receive an additional notice and be subject to an in-depth evaluation. As of the date of this report, no nonbank financial companies have been designated under these new procedures.

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proposed rulemaking. In stage one, FSOC analyzes data to identify a preliminary set of FMUs for possible designation. Categories of factors considered by FSOC in stage one include the aggregate monetary value of transactions and aggregate counterparty exposure. During stage two, the FMUs identified in stage one undergo a more in-depth review, with a greater focus on qualitative factors and other institutional and market specific considerations.

Title VIII authorizes FSOC to request information, reports, or records directly from the FMU under consideration for designation. In this regard, Title VIII requires FSOC to coordinate first with the FMU's appropriate financial regulatory agency to obtain this information. We note that the Dodd-Frank Act gives the OFR Director the authority to issue subpoenas to collect data on behalf of FSOC. An OFR official told us that OFR had yet to use its subpoena authority as of February 2015.

On December 21, 2011, FSOC voted to approve the advancement of eight FMUs to stage two of the designation process. On July 18, 2012, FSOC voted to designate the same eight FMUs as systemically important. The designated FMUs are:

- The Clearing House Payments Company, L.L.C.
- CLS Bank International
- Chicago Mercantile Exchange, Inc.
- The Depository Trust Company
- Fixed Income Clearing Corporation
- ICE Clear Credit LLC
- National Securities Clearing Corporation
- The Options Clearing Corporation

## Results of Audit

### **FSOC and OFR Data Requests Are Not Duplicative of Data Required by Primary Financial Regulatory Agencies**

FSOC and OFR data requests from financial companies have been limited to the designation processes for nonbank financial companies and FMUs, with one exception (explained in the Bilateral Repurchase Data Initiative section below). As prescribed in the final rule and interpretive guidance for the designation process in place

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at that time, neither FSOC nor OFR contacted any of the nonbank financial companies to request information until stage three of the evaluation process. During the FMU designation process, neither FSOC nor OFR contacted the FMUs directly to request any information. However, FSOC sent notification letters to the eight FMUs it was considering designating as systemically important. FSOC's FMU Committee,<sup>6</sup> with the relevant primary financial regulatory agency taking the lead, determined what data or other information was appropriate to evaluate under the statutory guidelines for such designation.

### **Nonbank Financial Companies**

FSOC relied on publicly available and regulatory data during stages one and two of the designation process. FSOC requested information from the nonbank financial companies during stage three. FSOC and OFR made both written and verbal requests for information, with OFR working on behalf of FSOC. During stage three FSOC engaged extensively with the nonbank financial companies under consideration, including phone calls, in-person meetings, and emails to clarify questions regarding the data that had been submitted. Additionally, FSOC invited the nonbank financial companies to submit any information they wished to contest the Council's consideration of the companies for a proposed designation.

Representatives of the designated nonbank financial companies told us that (1) the requests received from FSOC and OFR were not duplicative of data required by their primary financial regulatory agency and (2) their first contact with FSOC was when they were notified at the beginning of stage three by FSOC that they were being considered for designation. The representative from one nonbank financial company told us that the company recognized the requests were made by FSOC to gain an understanding of the company. Representatives from two nonbank financial companies told us that the nature of the requests sometimes made it difficult and burdensome to respond to the requests within the timeframes given by FSOC and OFR. However, the representatives

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<sup>6</sup> FSOC's FMU Committee comprises staff from Council member agencies, including the three FMU supervisory agencies: U.S. Commodity Futures Trading Commission, FRB, and the U.S. Securities and Exchange Commission.

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acknowledged that FSOC and OFR were accommodating in granting extensions when needed.

An official with FSOC's secretariat office confirmed to us that, in accordance with the final rule and guidance, requests for information during the designation process were made to the nonbank financial companies in the form of a voluntary request, not as a requirement. That said, the representative from one company told us there is little difference between a request and a requirement when it pertains to this kind of subject matter. We heard similar perspectives from the representatives at each of the other three companies. The representatives also told us that they recognized it was in their company's best interest to provide complete and accurate data to FSOC.

### **Financial Market Utilities**

FSOC and OFR officials told us that neither FSOC nor OFR requested information directly from the FMUs during the designation process. An OFR official also told us that OFR was not involved in the FMU designation process. The FMUs received notification letters from FSOC inviting them to submit information for or against the proposed designation during stage two of the evaluation process. To gather needed information, FSOC coordinated with the relevant primary financial regulatory agencies—the U.S. Commodity Futures Trading Commission, FRB, and the U.S. Securities and Exchange Commission—in accordance with the applicable final rule. The agencies relied on information they otherwise maintained as the FMUs' regulators but, when needed, also requested additional information from the FMUs directly on behalf of FSOC. Representatives of the FMUs confirmed to us that no additional data requests were sought directly by FSOC or OFR as part of the designation process that were duplicative or burdensome. Because FSOC and OFR did not make the requests for information to the FMUs, the question of data requests being duplicative is not applicable here.

### **OFR's Bilateral Repurchase Data Initiative**

OFR has undertaken an initiative with the FRB and the U.S. Securities and Exchange Commission to collect financial market

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information and data about bilateral repurchase agreements<sup>7</sup> because information about this aspect of the repurchase agreement market is reportedly limited. OFR officials told us that OFR worked directly with the two financial regulators to determine the specific data needed for the Bilateral Repurchase initiative. The officials also noted that this is the first project of its kind and that companies' participation in the project is voluntary. Additionally, according to officials, participating companies are providing input on what data should be gathered.<sup>8</sup>

## Conclusion

Based on our inquiries and review, we found no indications that data reporting required or requested of financial companies by FSOC and OFR has been duplicative of data required by primary financial regulatory agencies or unduly burdensome on those companies or any related entities.

The Dodd-Frank Act and FSOC's final rules on designating FMUs and nonbank financial companies direct FSOC to gather information from other sources before requesting information directly from an institution. We found that FSOC and OFR followed these requirements.

We are not making any recommendations to FSOC or OFR as a result of our audit.

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<sup>7</sup> OFR describes repurchase agreements as similar to a collateralized loan, in which one party sells a security to another party with an agreement to repurchase it later at an agreed price. The bilateral repurchase agreement market involves repurchase transactions conducted privately between two firms.

<sup>8</sup> Further information about this initiative is available at <http://financialresearch.gov/data/repo-data-project/>. (Website accessed by OIG on July 14, 2015.)

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We appreciate the courtesies and cooperation provided to our staff during the audit. If you wish to discuss the report, you may contact me at (202) 622-1090 or Marla A. Freedman, Assistant Inspector General for Audit, at (202) 927-5400. Major contributors to this report are listed in Appendix 3.

Eric M. Thorson /s/  
Inspector General

Our audit objective was to determine whether the data reporting required by the Financial Stability Oversight Council (FSOC) and the Office of Financial Research (OFR) from financial companies, or any related entities, is duplicative of data required by other regulators and burdensome. The scope of our review included FSOC's designation activities through the designation of MetLife, Inc., on December 18, 2014. To accomplish our objective, we conducted the following activities:

- interviewed officials from: FSOC's Secretariat Office, the Department of the Treasury, OFR, the U.S. Commodity Futures Trading Commission, the Board of Governors of the Federal Reserve System (FRB), and the U.S. Securities and Exchange Commission
- reviewed (1) applicable sections of the Dodd-Frank Wall Street Reform and Consumer Protection Act, (2) the final rule on FSOC's Authority to Designate Financial Market Utilities as Systemically Important, (3) the final rule and interpretive guidance issued on FSOC's Authority to Require Supervision and Regulation of Certain Nonbank Financial Companies, (4) the most recent FSOC and OFR annual reports, and (5) the Council of Inspectors General on Financial Oversight's audit report entitled *Audit of the Financial Stability Oversight Council's Designation of Financial Market Utilities* dated July 12, 2013<sup>9</sup>
- reviewed FSOC notification letters to nonbank financial companies and financial market utilities (FMUs) under review for designation and OFR memos to nonbank financial companies requesting information
- interviewed representatives from the nonbank financial companies that FSOC had designated to be supervised by the FRB: American International Group, Inc.; General Electric Capital Corporation; MetLife, Inc.; and Prudential Financial, Inc.
- interviewed representatives from FMUs that FSOC had designated as systemically important: The Clearing House Payments Company, L.L.C.; CLS Bank International; Chicago

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<sup>9</sup> This report is available on the Council of Inspectors General on Financial Oversight website at <http://www.treasury.gov/about/organizational-structure/ig/Pages/Council-of-Inspectors-General-on-Financial-Oversight.aspx> (accessed by the Office of Inspector General on August 21, 2015).

Mercantile Exchange, Inc.; The Depository Trust Company; Fixed Income Clearing Corporation; ICE Clear Credit LLC; National Securities Clearing Corporation; and The Options Clearing Corporation

We performed our audit fieldwork from February 2015 through June 2015.

We conducted this performance audit 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 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.

Appendix 2  
Management Comments



**DEPARTMENT OF THE TREASURY  
WASHINGTON, D.C. 20220**

August 20, 2015

The Honorable Eric M. Thorson  
Inspector General  
U.S. Department of the Treasury  
1500 Pennsylvania Avenue, NW  
Washington, D.C. 20220

Re: Response to the Treasury Inspector General's Draft Audit Report: *FSOC and OFR Data Requests Are Not Duplicative*

Dear Mr. Thorson:

Thank you for the opportunity to review and respond to your draft Audit Report, *FSOC and OFR Data Requests Are Not Duplicative*, dated July 2015 (the Report). This letter responds to the Report on behalf of the Secretary of the Treasury, as Chairperson of the Financial Stability Oversight Council (Council); and on behalf of the Director of the Office of Financial Research (OFR). Staff previously provided comments and technical suggestions.

The Report found that data requested by the Council and OFR was neither burdensome nor duplicative of data required by the primary financial regulatory agencies. The Report also noted that the Council and OFR followed established procedures as well as applicable guidance when requesting data directly from a financial company. The Report made no recommendations.

With regard to the Council's process for evaluating nonbank financial companies for potential designation, the Report noted that the Council had engaged extensively with the nonbank financial companies under review, including by phone, e-mail, and in-person meetings. Additionally, the Report found that the Council invited the nonbank financial companies to submit any information they wished to provide to the Council regarding a potential designation. Further, under new supplemental procedures adopted by the Council in February, companies will now know earlier in the process where they stand, providing sooner opportunities to engage with and provide input to the Council.

Thank you again for the opportunity to review and comment on the Report. We appreciate the work conducted by your office and look forward to working with you in the future.

Sincerely,

Patrick Pinschmidt, /s/  
Deputy Assistant Secretary  
Financial Stability Oversight Council

Cornelius Crowley, /s/  
Deputy Director and Chief Data Officer  
Office of Financial Research

Appendix 3  
Major Contributors To This Report

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**Financial Stability Oversight Council**

Chairperson

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Director

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**United States Senate**

Chairman and Ranking Member  
Committee on Appropriations

Chairman and Ranking Member  
Subcommittee on Financial Services and General Government  
Committee on Appropriations

Chairman and Ranking Member  
Committee on Banking, Housing, and Urban Affairs

**U.S. House of Representatives**

Chairman and Ranking Member  
Committee on Appropriations

Chairman and Ranking Member  
Subcommittee on Financial Services and General Government  
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