

111TH CONGRESS }
2d Session

HOUSE OF REPRESENTATIVES

{ REPORT
111-517

DODD-FRANK WALL STREET REFORM AND
CONSUMER PROTECTION ACT

CONFERENCE REPORT

TO ACCOMPANY

H.R. 4173



JUNE 29, 2010.—Ordered to be printed

U.S. GOVERNMENT PRINTING OFFICE

57-098

WASHINGTON : 2010

Subtitle B—Office of Financial Research

SEC. 151. DEFINITIONS.

For purposes of this subtitle—

(1) *the terms “Office” and “Director” mean the Office of Financial Research established under this subtitle and the Director thereof, respectively;*

(2) *the term “financial company” has the same meaning as in title II, and includes an insured depository institution and an insurance company;*

(3) *the term “Data Center” means the data center established under section 154;*

(4) *the term “Research and Analysis Center” means the research and analysis center established under section 154;*

(5) *the term “financial transaction data” means the structure and legal description of a financial contract, with sufficient detail to describe the rights and obligations between counterparties and make possible an independent valuation;*

(6) *the term “position data”—*

(A) *means data on financial assets or liabilities held on the balance sheet of a financial company, where positions are created or changed by the execution of a financial transaction; and*

(B) *includes information that identifies counterparties, the valuation by the financial company of the position, and information that makes possible an independent valuation of the position;*

(7) *the term “financial contract” means a legally binding agreement between 2 or more counterparties, describing rights and obligations relating to the future delivery of items of intrinsic or extrinsic value among the counterparties; and*

(8) *the term “financial instrument” means a financial contract in which the terms and conditions are publicly available, and the roles of one or more of the counterparties are assignable without the consent of any of the other counterparties (including common stock of a publicly traded company, government bonds, or exchange traded futures and options contracts).*

SEC. 152. OFFICE OF FINANCIAL RESEARCH ESTABLISHED.

(a) **ESTABLISHMENT.**—*There is established within the Department of the Treasury the Office of Financial Research.*

(b) **DIRECTOR.**—

(1) **IN GENERAL.**—*The Office shall be headed by a Director, who shall be appointed by the President, by and with the advice and consent of the Senate.*

(2) **TERM OF SERVICE.**—*The Director shall serve for a term of 6 years, except that, in the event that a successor is not nominated and confirmed by the end of the term of service of a Director, the Director may continue to serve until such time as the next Director is appointed and confirmed.*

(3) **EXECUTIVE LEVEL.**—*The Director shall be compensated at Level III of the Executive Schedule.*

(4) **PROHIBITION ON DUAL SERVICE.**—*The individual serving in the position of Director may not, during such service, also serve as the head of any financial regulatory agency.*

(5) *RESPONSIBILITIES, DUTIES, AND AUTHORITY.*—The Director shall have sole discretion in the manner in which the Director fulfills the responsibilities and duties and exercises the authorities described in this subtitle.

(c) *BUDGET.*—The Director, in consultation with the Chairperson, shall establish the annual budget of the Office.

(d) *OFFICE PERSONNEL.*—

(1) *IN GENERAL.*—The Director, in consultation with the Chairperson, may fix the number of, and appoint and direct, all employees of the Office.

(2) *COMPENSATION.*—The Director, in consultation with the Chairperson, shall fix, adjust, and administer the pay for all employees of the Office, without regard to chapter 51 or subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates.

(3) *COMPARABILITY.*—Section 1206(a) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 1833b(a)) is amended—

(A) by striking “Finance Board,” and inserting “Finance Board, the Office of Financial Research, and the Bureau of Consumer Financial Protection”; and

(B) by striking “and the Office of Thrift Supervision,”.

(4) *SENIOR EXECUTIVES.*—Section 3132(a)(1)(D) of title 5, United States Code, is amended by striking “and the National Credit Union Administration,” and inserting “the National Credit Union Administration, the Bureau of Consumer Financial Protection, and the Office of Financial Research;”.

(e) *ASSISTANCE FROM FEDERAL AGENCIES.*—Any department or agency of the United States may provide to the Office and any special advisory, technical, or professional committees appointed by the Office, such services, funds, facilities, staff, and other support services as the Office may determine advisable. Any Federal Government employee may be detailed to the Office without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(f) *PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.*—The Director may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for Level V of the Executive Schedule under section 5316 of such title.

(g) *POST-EMPLOYMENT PROHIBITIONS.*—The Secretary, with the concurrence of the Director of the Office of Government Ethics, shall issue regulations prohibiting the Director and any employee of the Office who has had access to the transaction or position data maintained by the Data Center or other business confidential information about financial entities required to report to the Office from being employed by or providing advice or consulting services to a financial company, for a period of 1 year after last having had access in the course of official duties to such transaction or position data or business confidential information, regardless of whether that entity is required to report to the Office. For employees whose access to business confidential information was limited, the regulations may provide, on a case-by-case basis, for a shorter period of post-employ-

ment prohibition, provided that the shorter period does not compromise business confidential information.

(h) **TECHNICAL AND PROFESSIONAL ADVISORY COMMITTEES.**—The Office, in consultation with the Chairperson, may appoint such special advisory, technical, or professional committees as may be useful in carrying out the functions of the Office, and the members of such committees may be staff of the Office, or other persons, or both.

(i) **FELLOWSHIP PROGRAM.**—The Office, in consultation with the Chairperson, may establish and maintain an academic and professional fellowship program, under which qualified academics and professionals shall be invited to spend not longer than 2 years at the Office, to perform research and to provide advanced training for Office personnel.

(j) **EXECUTIVE SCHEDULE COMPENSATION.**—Section 5314 of title 5, United States Code, is amended by adding at the end the following new item:

“Director of the Office of Financial Research.”.

SEC. 153. PURPOSE AND DUTIES OF THE OFFICE.

(a) **PURPOSE AND DUTIES.**—The purpose of the Office is to support the Council in fulfilling the purposes and duties of the Council, as set forth in subtitle A, and to support member agencies, by—

(1) collecting data on behalf of the Council, and providing such data to the Council and member agencies;

(2) standardizing the types and formats of data reported and collected;

(3) performing applied research and essential long-term research;

(4) developing tools for risk measurement and monitoring;

(5) performing other related services;

(6) making the results of the activities of the Office available to financial regulatory agencies; and

(7) assisting such member agencies in determining the types and formats of data authorized by this Act to be collected by such member agencies.

(b) **ADMINISTRATIVE AUTHORITY.**—The Office may—

(1) share data and information, including software developed by the Office, with the Council, member agencies, and the Bureau of Economic Analysis, which shared data, information, and software—

(A) shall be maintained with at least the same level of security as is used by the Office; and

(B) may not be shared with any individual or entity without the permission of the Council;

(2) sponsor and conduct research projects; and

(3) assist, on a reimbursable basis, with financial analyses undertaken at the request of other Federal agencies that are not member agencies.

(c) **RULEMAKING AUTHORITY.**—

(1) **SCOPE.**—The Office, in consultation with the Chairperson, shall issue rules, regulations, and orders only to the extent necessary to carry out the purposes and duties described in paragraphs (1), (2), and (7) of subsection (a).

(2) **STANDARDIZATION.**—Member agencies, in consultation with the Office, shall implement regulations promulgated by the

Office under paragraph (1) to standardize the types and formats of data reported and collected on behalf of the Council, as described in subsection (a)(2). If a member agency fails to implement such regulations prior to the expiration of the 3-year period following the date of publication of final regulations, the Office, in consultation with the Chairperson, may implement such regulations with respect to the financial entities under the jurisdiction of the member agency. This paragraph shall not supersede or interfere with the independent authority of a member agency under other law to collect data, in such format and manner as the member agency requires.

(d) **TESTIMONY.**—

(1) **IN GENERAL.**—The Director of the Office shall report to and testify before the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives annually on the activities of the Office, including the work of the Data Center and the Research and Analysis Center, and the assessment of the Office of significant financial market developments and potential emerging threats to the financial stability of the United States.

(2) **NO PRIOR REVIEW.**—No officer or agency of the United States shall have any authority to require the Director to submit the testimony required under paragraph (1) or other congressional testimony to any officer or agency of the United States for approval, comment, or review prior to the submission of such testimony. Any such testimony to Congress shall include a statement that the views expressed therein are those of the Director and do not necessarily represent the views of the President.

(e) **ADDITIONAL REPORTS.**—The Director may provide additional reports to Congress concerning the financial stability of the United States. The Director shall notify the Council of any such additional reports provided to Congress.

(f) **SUBPOENA.**—

(1) **IN GENERAL.**—The Director may require from a financial company, by subpoena, the production of the data requested under subsection (a)(1) and section 154(b)(1), but only upon a written finding by the Director that—

(A) such data is required to carry out the functions described under this subtitle; and

(B) the Office has coordinated with the relevant primary financial regulatory agency, as required under section 154(b)(1)(B)(ii).

(2) **FORMAT.**—Subpoenas under paragraph (1) shall bear the signature of the Director, and shall be served by any person or class of persons designated by the Director for that purpose.

(3) **ENFORCEMENT.**—In the case of contumacy or failure to obey a subpoena, the subpoena shall be enforceable by order of any appropriate district court of the United States. Any failure to obey the order of the court may be punished by the court as a contempt of court.

SEC. 154. ORGANIZATIONAL STRUCTURE; RESPONSIBILITIES OF PRIMARY PROGRAMMATIC UNITS.

(a) **IN GENERAL.**—There are established within the Office, to carry out the programmatic responsibilities of the Office—

- (1) *the Data Center; and*
 (2) *the Research and Analysis Center.*
- (b) **DATA CENTER.**—
- (1) **GENERAL DUTIES.**—
- (A) **DATA COLLECTION.**—*The Data Center, on behalf of the Council, shall collect, validate, and maintain all data necessary to carry out the duties of the Data Center, as described in this subtitle. The data assembled shall be obtained from member agencies, commercial data providers, publicly available data sources, and financial entities under subparagraph (B).*
- (B) **AUTHORITY.**—
- (i) **IN GENERAL.**—*The Office may, as determined by the Council or by the Director in consultation with the Council, require the submission of periodic and other reports from any financial company for the purpose of assessing the extent to which a financial activity or financial market in which the financial company participates, or the financial company itself, poses a threat to the financial stability of the United States.*
- (ii) **MITIGATION OF REPORT BURDEN.**—*Before requiring the submission of a report from any financial company that is regulated by a member agency, any primary financial regulatory agency, a foreign supervisory authority, or the Office shall coordinate with such agencies or authority, and shall, whenever possible, rely on information available from such agencies or authority.*
- (iii) **COLLECTION OF FINANCIAL TRANSACTION AND POSITION DATA.**—*The Office shall collect, on a schedule determined by the Director, in consultation with the Council, financial transaction data and position data from financial companies.*
- (C) **RULEMAKING.**—*The Office shall promulgate regulations pursuant to subsections (a)(1), (a)(2), (a)(7), and (c)(1) of section 153 regarding the type and scope of the data to be collected by the Data Center under this paragraph.*
- (2) **RESPONSIBILITIES.**—
- (A) **PUBLICATION.**—*The Data Center shall prepare and publish, in a manner that is easily accessible to the public—*
- (i) *a financial company reference database;*
 (ii) *a financial instrument reference database; and*
 (iii) *formats and standards for Office data, including standards for reporting financial transaction and position data to the Office.*
- (B) **CONFIDENTIALITY.**—*The Data Center shall not publish any confidential data under subparagraph (A).*
- (3) **INFORMATION SECURITY.**—*The Director shall ensure that data collected and maintained by the Data Center are kept secure and protected against unauthorized disclosure.*
- (4) **CATALOG OF FINANCIAL ENTITIES AND INSTRUMENTS.**—*The Data Center shall maintain a catalog of the financial entities and instruments reported to the Office.*

(5) *AVAILABILITY TO THE COUNCIL AND MEMBER AGENCIES.*—The Data Center shall make data collected and maintained by the Data Center available to the Council and member agencies, as necessary to support their regulatory responsibilities.

(6) *OTHER AUTHORITY.*—The Office shall, after consultation with the member agencies, provide certain data to financial industry participants and to the general public to increase market transparency and facilitate research on the financial system, to the extent that intellectual property rights are not violated, business confidential information is properly protected, and the sharing of such information poses no significant threats to the financial system of the United States.

(c) *RESEARCH AND ANALYSIS CENTER.*—

(1) *GENERAL DUTIES.*—The Research and Analysis Center, on behalf of the Council, shall develop and maintain independent analytical capabilities and computing resources—

(A) to develop and maintain metrics and reporting systems for risks to the financial stability of the United States;

(B) to monitor, investigate, and report on changes in systemwide risk levels and patterns to the Council and Congress;

(C) to conduct, coordinate, and sponsor research to support and improve regulation of financial entities and markets;

(D) to evaluate and report on stress tests or other stability-related evaluations of financial entities overseen by the member agencies;

(E) to maintain expertise in such areas as may be necessary to support specific requests for advice and assistance from financial regulators;

(F) to investigate disruptions and failures in the financial markets, report findings, and make recommendations to the Council based on those findings;

(G) to conduct studies and provide advice on the impact of policies related to systemic risk; and

(H) to promote best practices for financial risk management.

(d) *REPORTING RESPONSIBILITIES.*—

(1) *REQUIRED REPORTS.*—Not later than 2 years after the date of enactment of this Act, and not later than 120 days after the end of each fiscal year thereafter, the Office shall prepare and submit a report to Congress.

(2) *CONTENT.*—Each report required by this subsection shall assess the state of the United States financial system, including—

(A) an analysis of any threats to the financial stability of the United States;

(B) the status of the efforts of the Office in meeting the mission of the Office; and

(C) key findings from the research and analysis of the financial system by the Office.

SEC. 155. FUNDING.

(a) *FINANCIAL RESEARCH FUND.*—

(1) *FUND ESTABLISHED.*—There is established in the Treasury of the United States a separate fund to be known as the “Financial Research Fund”.

(2) *FUND RECEIPTS.*—All amounts provided to the Office under subsection (c), and all assessments that the Office receives under subsection (d) shall be deposited into the Financial Research Fund.

(3) *INVESTMENTS AUTHORIZED.*—

(A) *AMOUNTS IN FUND MAY BE INVESTED.*—The Director may request the Secretary to invest the portion of the Financial Research Fund that is not, in the judgment of the Director, required to meet the needs of the Office.

(B) *ELIGIBLE INVESTMENTS.*—Investments shall be made by the Secretary in obligations of the United States or obligations that are guaranteed as to principal and interest by the United States, with maturities suitable to the needs of the Financial Research Fund, as determined by the Director.

(4) *INTEREST AND PROCEEDS CREDITED.*—The interest on, and the proceeds from the sale or redemption of, any obligations held in the Financial Research Fund shall be credited to and form a part of the Financial Research Fund.

(b) *USE OF FUNDS.*—

(1) *IN GENERAL.*—Funds obtained by, transferred to, or credited to the Financial Research Fund shall be immediately available to the Office, and shall remain available until expended, to pay the expenses of the Office in carrying out the duties and responsibilities of the Office.

(2) *FEES, ASSESSMENTS, AND OTHER FUNDS NOT GOVERNMENT FUNDS.*—Funds obtained by, transferred to, or credited to the Financial Research Fund shall not be construed to be Government funds or appropriated moneys.

(3) *AMOUNTS NOT SUBJECT TO APPORTIONMENT.*—Notwithstanding any other provision of law, amounts in the Financial Research Fund shall not be subject to apportionment for purposes of chapter 15 of title 31, United States Code, or under any other authority, or for any other purpose.

(c) *INTERIM FUNDING.*—During the 2-year period following the date of enactment of this Act, the Board of Governors shall provide to the Office an amount sufficient to cover the expenses of the Office.

(d) *PERMANENT SELF-FUNDING.*—Beginning 2 years after the date of enactment of this Act, the Secretary shall establish, by regulation, and with the approval of the Council, an assessment schedule, including the assessment base and rates, applicable to bank holding companies with total consolidated assets of \$50,000,000,000 or greater and nonbank financial companies supervised by the Board of Governors, that takes into account differences among such companies, based on the considerations for establishing the prudential standards under section 115, to collect assessments equal to the total expenses of the Office.

SEC. 156. TRANSITION OVERSIGHT.

(a) *PURPOSE.*—The purpose of this section is to ensure that the Office—

- (1) has an orderly and organized startup;
- (2) attracts and retains a qualified workforce; and

(3) establishes comprehensive employee training and benefits programs.

(b) **REPORTING REQUIREMENT.**—

(1) **IN GENERAL.**—The Office shall submit an annual report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives that includes the plans described in paragraph (2).

(2) **PLANS.**—The plans described in this paragraph are as follows:

(A) **TRAINING AND WORKFORCE DEVELOPMENT PLAN.**—The Office shall submit a training and workforce development plan that includes, to the extent practicable—

- (i) identification of skill and technical expertise needs and actions taken to meet those requirements;
- (ii) steps taken to foster innovation and creativity;
- (iii) leadership development and succession planning; and
- (iv) effective use of technology by employees.

(B) **WORKPLACE FLEXIBILITY PLAN.**—The Office shall submit a workforce flexibility plan that includes, to the extent practicable—

- (i) telework;
- (ii) flexible work schedules;
- (iii) phased retirement;
- (iv) reemployed annuitants;
- (v) part-time work;
- (vi) job sharing;
- (vii) parental leave benefits and childcare assistance;
- (viii) domestic partner benefits;
- (ix) other workplace flexibilities; or
- (x) any combination of the items described in clauses (i) through (ix).

(C) **RECRUITMENT AND RETENTION PLAN.**—The Office shall submit a recruitment and retention plan that includes, to the extent practicable, provisions relating to—

- (i) the steps necessary to target highly qualified applicant pools with diverse backgrounds;
- (ii) streamlined employment application processes;
- (iii) the provision of timely notification of the status of employment applications to applicants; and
- (iv) the collection of information to measure indicators of hiring effectiveness.

(c) **EXPIRATION.**—The reporting requirement under subsection (b) shall terminate 5 years after the date of enactment of this Act.

(d) **RULE OF CONSTRUCTION.**—Nothing in this section may be construed to affect—

(1) a collective bargaining agreement, as that term is defined in section 7103(a)(8) of title 5, United States Code, that is in effect on the date of enactment of this Act; or

(2) the rights of employees under chapter 71 of title 5, United States Code.