

114TH CONGRESS  
1ST SESSION

# H. R. 4248

To amend the Financial Stability Act to revise the reevaluation procedures with respect to determinations by the Financial Stability Oversight Council that a nonbank financial company shall be supervised by the Board of Governors and shall be subject to prudential standards.

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## IN THE HOUSE OF REPRESENTATIVES

DECEMBER 15, 2015

Mr. WESTMORELAND (for himself and Mr. DAVID SCOTT of Georgia) introduced the following bill; which was referred to the Committee on Financial Services

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## A BILL

To amend the Financial Stability Act to revise the reevaluation procedures with respect to determinations by the Financial Stability Oversight Council that a nonbank financial company shall be supervised by the Board of Governors and shall be subject to prudential standards.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “FSOC Designation Re-  
5 view Act”.

1 **SEC. 2. REEVALUATION AND REAFFIRMATION.**

2 Section 113(d) of the Financial Stability Act of 2010  
3 (12 U.S.C. 5323(d)) is amended to read as follows:

4 “(d) REEVALUATION AND REAFFIRMATION.—

5 “(1) IN GENERAL.—The Council shall reevalua-  
6 ate each determination made under subsections (a)  
7 and (b) with respect to a nonbank financial company  
8 supervised by the Board of Governors on—

9 “(A) an annual basis; and

10 “(B) upon the request of such company  
11 based upon the company’s representation that  
12 there has been a material change in the com-  
13 pany’s operations or activities or a material  
14 change in regulatory or market conditions.

15 “(2) REEVALUATION.—As part of the reevalua-  
16 tion required by paragraph (1), the Council shall—

17 “(A) provide the nonbank financial com-  
18 pany with a confidential written analysis of the  
19 specific elements of the company’s exposures or  
20 activities that would be relevant to the Council’s  
21 reevaluation of the determination for such com-  
22 pany;

23 “(B) provide the nonbank financial com-  
24 pany with an opportunity to submit written ma-  
25 terials to the Council regarding the reevalua-  
26 tion, including, as the company’s option, a plan

1 to obtain rescission of the determination or  
2 other materials relevant to the assessment de-  
3 scribed under paragraph (3)(A);

4 “(C) if the nonbank financial company  
5 submits a plan under subparagraph (B), con-  
6 sider whether the plan, if implemented, would  
7 result in the nonbank financial company no  
8 longer meeting the criteria for a final deter-  
9 mination under subsection (a) or (b);

10 “(D) make a preliminary written decision  
11 regarding rescinding such determination;

12 “(E) if the preliminary decision is not to  
13 rescind the determination, provide the nonbank  
14 financial company with—

15 “(i) a copy of the preliminary deci-  
16 sion, which shall include a confidential  
17 written analysis explaining with specificity  
18 whether and to what extent any plan sub-  
19 mitted by the company under subpara-  
20 graph (B) addresses the potential threat  
21 posed by the nonbank financial company to  
22 the financial stability of the United States;

23 “(ii) an opportunity to meet with rep-  
24 resentatives of the Council to discuss the

1 preliminary decision and analysis provided  
2 under clause (i); and

3 “(iii) an opportunity to revise and re-  
4 submit such plan or any other written ma-  
5 terials, after discussions with representa-  
6 tives of the Council; and

7 “(F) upon the request of the nonbank fi-  
8 nancial company, grant such company an oral  
9 hearing before the Council.

10 “(3) VULNERABILITY TO FINANCIAL DIS-  
11 TRESS.—

12 “(A) IN GENERAL.—The written analysis  
13 required under paragraph (2)(A) shall include  
14 an assessment describing with particularity the  
15 vulnerability of the nonbank financial company  
16 to financial distress, including consideration of  
17 the company’s leverage, liquidity risk and matu-  
18 rity mismatch, and existing regulatory scrutiny  
19 of the company.

20 “(B) EFFECTIVE OF FAILURE TO INCLUDE  
21 ASSESSMENT.—If the Council provides a writ-  
22 ten analysis under paragraph (2)(A) that does  
23 not contain the assessment required under sub-  
24 paragraph (A), any determination made under

1 subsection (a) or (b) with respect to such com-  
2 pany shall be rescinded immediately.

3 “(C) DEFINITIONS.—For purposes of this  
4 paragraph the terms ‘vulnerability to financial  
5 distress’, ‘leverage’, ‘liquidity risk and maturity  
6 mismatch’, and ‘existing regulatory scrutiny of  
7 the nonbank financial company’ shall have the  
8 same meaning as those terms are given, respec-  
9 tively, under appendix A to part 1310 of title  
10 12, Code of Federal Regulations.

11 “(4) REAFFIRMATION.—

12 “(A) IN GENERAL.—Following a reevalua-  
13 tion under paragraph (1), the Council shall vote  
14 whether to reaffirm the determination that the  
15 nonbank financial company shall be supervised  
16 by the Board of Governors and shall be subject  
17 to prudential standards, pursuant to subsection  
18 (a) or (b), as applicable.

19 “(B) VOTE REQUIREMENT.—Any reaffir-  
20 mation under subparagraph (A) shall require a  
21 vote of no fewer than  $\frac{2}{3}$  of the voting members  
22 then serving, including an affirmative vote by  
23 the Chairperson, finding that the company still  
24 meets the standards for designation under sub-  
25 section (a) or (b), as applicable. Any such find-

1           ing shall include a detailed explanation of the  
2           basis for the Council’s determination, including  
3           a confidential written analysis explaining with  
4           specificity whether and to what extent any plan  
5           submitted by the nonbank financial company  
6           pursuant to paragraph (2)(B) addresses the po-  
7           tential threat posed by the company to the fi-  
8           nancial stability of the United States.

9           “(C) EFFECT OF FAILURE TO REAF-  
10          FIRM.—If the Council votes under subpara-  
11          graph (A) with respect to a nonbank financial  
12          company and does not reaffirm the designation,  
13          the determination made with respect to such  
14          company shall be rescinded immediately.

15          “(5) VIEWS OF PRIMARY FINANCIAL REGU-  
16          LATORY AGENCY.—In conducting a reevaluation  
17          under paragraph (1), the Council shall consult with  
18          the primary financial regulatory agency for the  
19          nonbank financial company, if any, and the primary  
20          financial regulatory agencies of the company’s prin-  
21          cipal subsidiaries, if any, and the views of such  
22          agencies shall be given special consideration.”.

1 **SEC. 3. JUDICIAL REVIEW.**

2       Section 113(h) of the Financial Stability Act of 2010  
3 (12 U.S.C. 5323(h)) is amended by striking “subsection  
4 (d)(2)” and inserting “subsection (d)(4)”.

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