

## COMMENT LETTER

March 12, 2018

# ICI Letter Supporting the Financial Stability Oversight Council (FSOC) Improvement Act (pdf)

March 12, 2018 The Honorable Paul Ryan The Honorable Nancy Pelosi Speaker Minority Leader US House of Representatives US House of Representatives H-232, The Capitol H-204, The Capitol Washington, DC 20515 Washington, DC 20515 Re: Support for H.R. 4061, the “Financial Stability Oversight Council (FSOC) Improvement Act” Dear Speaker Ryan and Minority Leader Pelosi: I am writing on behalf of the Investment Company Institute\* to express support for H.R. 4061, the Financial Stability Oversight Council (FSOC) Improvement Act introduced by Congressmen Dennis Ross (R-FL) and John Delaney (D-MD), which we expect the House to consider this week or next. H.R. 4061 is cosponsored by 58 members equally split between Republicans and Democrats, 36 of whom sit on the House Financial Services Committee. H.R. 4061 successfully passed the Financial Services Committee on January 18, 2018 by a 45-10 vote. FSOC’s goal should be to reduce systemic risk, not to designate nonbank financial companies as systemically important financial institutions (“SIFIs”) for the Federal Reserve to regulate. Furthermore, SIFI designation is a blunt tool for addressing systemic risk. H.R. 4061 makes the FSOC nonbank SIFI designation process more accountable and transparent, and ensures that a SIFI designation is only used when systemic risk cannot be addressed more effectively by an entity’s primary regulator or by an action of the entity itself. \*The Investment Company Institute (ICI) is the leading association representing regulated funds globally, including mutual funds, exchange-traded funds (ETFs), closed-end funds, and unit investment trusts (UITs) in the United States, and similar funds offered to investors in jurisdictions worldwide. ICI seeks to encourage adherence to high ethical standards, promote public understanding, and otherwise advance the interests of funds, their shareholders, directors, and advisers. ICI’s members manage total assets of US\$22.5 trillion in the United States, serving more than 100 million US shareholders, and US\$7.5 trillion in assets in other jurisdictions. ICI carries out its international work through ICI Global, with offices in London, Hong Kong, and Washington, DC. Letter re: FSOC Improvement Act March 12, 2018 Page 2 H.R. 4061, the FSOC Improvement Act: 1. Codifies into law “supplemental procedures” that FSOC adopted in 2015 to provide more transparency to its nonbank SIFI designation process. While we appreciate that FSOC adopted these provisions, incorporating them in H.R. 4061 prevents FSOC from changing them at any time, and without public input, as currently could happen. 2. Requires FSOC to identify the reasons it believes an entity poses systemic risk. 3. Encourages de-risking prior to SIFI designation. • The bill allows an entity’s primary regulator to address identified systemic risk broadly rather than simply designating an individual entity. An entity’s primary regulator is often better positioned than FSOC to

address the identified risks. Primary regulators have particular expertise and additional regulatory tools not available to FSOC, and they can address risks on an industry wide basis if necessary. Such action can have a greater risk mitigation impact than SIFI designation. • The legislation also allows an entity that FSOC has proposed to designate as a SIFI the opportunity to make changes to its structure or business practices to address identified systemic risks prior to designation. Allowing an entity the opportunity to change its business model or practices may in some cases be the most effective way to address the identified risks. 4. Encourages de-risking after SIFI designation by allowing a designated company to petition FSOC for a more robust review every 5 years. The company would be allowed to present FSOC with a plan on how it could de-risk and shed its SIFI designation by changing its business structure or practices. After such a review, FSOC would be required to vote on whether to rescind the company's designation. ICI members—mutual funds and other registered investment companies—are the investment vehicles of choice for over 100 million Americans seeking to buy a home, pay for college, or plan for financial security in retirement. Registered funds and their managers do not, however, pose the types of risks that may exist at other financial institutions. Registered funds do not fail like other financial institutions do—investment losses are absorbed by fund investors, so there's no need for a government bailout. Unlike other financial institutions, fund managers act as agents. Fund investors—not fund managers—bear the risks of any portfolio losses, or the benefits of any gains. The consequences of designation—i.e., bank-style capital requirements and prudential supervision by the Federal Reserve—are altogether inappropriate in the case of registered funds and their managers. SIFI designation of registered funds and their managers would result in significant costs for investors and reduce their investment returns, harming retirement savers. In addition, it would distort the fund marketplace if some funds or managers are designated while others engaging in the exact same practices are not, and impede the important role that funds play as a vital source of funding in our capital markets. Letter re: FSOC Improvement Act March 12, 2018 Page 3 We believe that H.R. 4061 is a reasonable, bipartisan approach that enhances the ability of FSOC to mitigate systemic risk and ensures that nonbank SIFI designations are reserved for the limited cases where Federal Reserve oversight is more appropriate for addressing identified systemic risk than alternative regulatory tools or action by the entity. We urge you to vote for H.R. 4061. Thank you for considering our views. Sincerely, Paul Schott Stevens President & CEO Investment Company Institute cc: Members of the US House of Representatives