Congress of the United States
Washington, DC 20515

April 9, 2014

The Honorable Jacob Lew
Chairman
Financial Stability Oversight Council
1500 Pennsylvania Avenue, NW
Washington, DC 20220

Dear Chairman Lew:

We write to you with regard to the Financial Stability Oversight Council's (the "FSOC" or "Council") reported review of the asset management sector in the context of potential systemically important financial institution ("SIFI") designations under § 113 of the Dodd-Frank Act. Over 90 million investors use the services of asset managers to achieve their most important financial goals, such as providing for a secure retirement, saving for college, and making a down payment on a home. Innovations in technology and products have made it easier than ever for all Americans to take advantage of the services of asset managers. Given the importance of these services to our constituents, the FSOC should reduce the likelihood that any action will have unintended negative consequences for consumers, and that such action will meaningfully reduce systemic risk. Unfortunately, the recent Office of Financial Research (OFR) study on asset management was criticized for failing to display a comprehensive understanding. Further, any FSOC evaluation of the asset management industry should be conducted in an open and transparent manner that at the outset: (1) specifically identifies the systemic risks that the FSOC worries the sector could pose to the U.S. financial system, and (2) explains in detail how the FSOC thinks designation would mitigate these risks.

Asset managers are fundamentally distinct from other financial institutions because they manage client assets on an agency basis – meaning they do not own or bear the investment risks of the assets they manage. Such assets are not consolidated across funds, nor do they appear on advisers' balance sheets. In addition, asset managers and their activities are already subject to comprehensive regulation. For example, registered funds are subject to such investor and market protections as leverage and liquidity limits, portfolio diversification requirements, and an extensive disclosure regime. The Dodd-Frank Act itself recognizes the unique nature of the asset management industry and it is critical that the FSOC takes this into consideration.[1]

Should the FSOC proceed with a review of the asset management sector for possible SIFI designation, it is crucial that such review be transparent. The Council adopted quantitative thresholds for nonbank SIFI designation in April 2012, but to date the Council has yet to specify what factors it would use to evaluate asset management entities for possible SIFI designation.

[1] § 113(a)(2)(F) of the Dodd-Frank Act requires the FSOC to consider "the extent to which assets are managed rather than owned by the company, and the extent to which ownership of assets under management is diffuse" when making a § 113 designation.

Specifically, the Council made clear that it reserved the right to use other methods to evaluate the asset management sector. Any development of alternative metrics or thresholds to evaluate asset management entities should be subject to public notice and comment prior to use.[2] In publishing such alternative metrics and thresholds, the FSOC should precisely identify the systemic risks it is trying to address and publicly disclose the economic models, data, and analysis that support its approach *before* taking any steps to identify particular asset management entities for SIFI designation. Ultimately, this would require the FSOC to perform and publish additional analysis beyond the OFR's recent study on "Asset Management and Financial Stability" which has been criticized for relying on inaccurate and incomplete data.[3]

Finally, prior to evaluating any asset management entities, the Council should determine and publicly explain in detail how any identified risks would be mitigated by subjecting asset management entities to Federal Reserve supervision. Specifically, the additional regulations that would be imposed on designated entities should be identified and the FSOC should explain how prudential standards – which are designed to mitigate bank-like risks – would not only be effective, but also preferable to additional regulation by the industry's primary regulator, the Securities and Exchange Commission.

We respect the Council's work and understand the difficult task the FSOC has been forced to undertake and highlight this issue because the asset management industry is fundamental to our constituents, their financial security (such as their education and retirement savings goals), and to capital formation and U.S. economic growth. Most importantly asset managers have a fundamentally different risk profile – one that is much lower – than traditional balance sheet oriented financial institutions. We hope the Council's work will ensure that any regulatory review or additional action does not limit access to these services or cause them to become cost-prohibitive. It is of utmost importance that any review by the FSOC of the industry is thorough, comprehensive and transparent.

Sincerely,

DENNIS A. ROSS
Member of Congress

JOHN DELANEY
Member of Congress

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[2] In its April 2012 final rule release "Authority to Require Supervision and Regulation of Certain Nonbank Financial Companies," the FSOC states that asset managers "may pose risks that are not well-measured by the quantitative thresholds approach" adopted by the FSOC for evaluating nonbank SIFIs and that the Council "may develop additional guidance regarding potential metrics and thresholds relevant to determinations regarding asset managers."

[3] See public comments filed with the SEC on the OFR Study on "Asset Management and Financial Stability" available at: http://www.sec.gov/comments/am-1/am-1.shtml.

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