

Endnotes

Section 6

¹ Insured depository institutions, Farm Credit System institutions, Fannie Mae, Freddie Mac, and the Federal Home Loan Banks are not subject to resolution under the OLA.

² In the case of a failing insurance company, the company is resolved under the relevant state's liquidation or rehabilitation process rather than under the FDIC's receivership process. Special procedures also apply to the resolution of failing financial companies that are broker-dealers.

³ The Council met on August 8, 2011; September 15, 2011; October 11, 2011; October 31, 2011; November 11, 2011; December 5, 2011; December 21, 2011; February 1, 2012; April 3, 2012; May 22, 2012; June 11, 2012; and July 18, 2012.

⁴ The Freedom of Information Act regulation is available online at www.fsoc.gov.

⁵ The transparency policy is available online at www.fsoc.gov.

Appendix A

¹ 12 U.S.C. § 5463(a) (2).

² 12 CFR 1320.10.

³ See 12 U.S.C. § 5462(6).

⁴ The list of globally systemically important financial institutions, as determined by the Financial Stability Board, is available at www.financialstabilityboard.org/publications/r_111104bb.pdf

⁵ 12 U.S.C. § 611 *et seq.* (section 25A of the Federal Reserve Act).

⁶ See 12 U.S.C. § 5462(6).

⁷ See Bank for International Settlements, *Triennial Central Bank Survey, Report on global foreign exchange market activity in 2010* (Triennial Survey) (December 2010). The Bank for International Settlements reports average daily FX market turnover as 3.98 trillion USDE, which is the sum of one side of each FX transaction in 2010. For the purpose of comparability with statistics provided by CLS Bank, this value has been doubled and reported as the average aggregate daily value settled in the FX market.

⁸ CLS Bank currently settles transactions in 17 currencies: the Australian dollar, British pound, Canadian dollar, Danish krone, euro, Hong Kong dollar, Israeli shekel, Japanese yen, Mexican peso, New Zealand dollar, Norwegian krone, Singapore dollar, South African rand, South Korean won, Swedish krona, Swiss franc, and U.S. dollar.

⁹ By settling the two sides of an FX transaction simultaneously, on a PVP basis, CLS Bank substantially reduces settlement risk to institutions using its services.

¹⁰ An ASPL of zero would require that settlement members prefund transactions before settlement can take place.

¹¹ The maximum potential credit exposure is calculated as the sum of each settlement member's ASPL and assumes that each member reaches its ASPL at the same time.

¹² Members are not required to meet all additional pay-in calls, though non-compliance may result in some of their trades not settling at CLS Bank on settlement date and would be considered a multiple member pay-in failure.

¹³ See 12 U.S.C. § 5462(6). However, because DCMs are expressly excluded from the definition of an FMU (the Act specifically states that "the term 'financial market utility' does not include – (i)

designated contract markets...”), the activities of CME’s designated contract markets fall outside of this definition.

¹⁴ CFTC staff calculation based on volume (based on the number of contracts cleared). The underlying data for the calculation is taken from publicly available data compiled by the Futures Industry Association (FIA). See note 16.

¹⁵ DCMs are CFTC-regulated markets for the trading of contracts for sale of a commodity for future delivery or commodity options. Essentially, they are boards of trade (or exchanges) that operate under the regulatory oversight of the CFTC, pursuant to Section 5 of the Commodity Exchange Act.

¹⁶

US Futures & Options Volume	
Number of contracts traded and/or cleared	
	2011
CME Group	3,386,986,678
ICE Futures US	107,287,467
CBOE Futures Exchange	12,040,074
Chicago Climate Futures Exchange	84,580
NYSE Liffe US	20,898,174
US Total	3,527,296,973
CME Group % of total	96%

¹⁷ For example, a central counterparty will net member A’s long exposure in oil (formerly to B) and A’s short exposure in natural gas (formerly to C), in determining A’s collateral requirements.

¹⁸ Generally speaking, hedging activities result in more efficient markets and, ultimately, lower costs for consumers.

¹⁹ The futures and options markets play critical roles in the U.S. financial system because they provide two important functions. First, market participants such as grain merchants, energy firms, and portfolio managers use futures and options to reduce the risk to their business associated with volatile prices. Second, the futures and options markets provide the economy with price discovery (meaning they help determine the price level for commodities), and because futures prices are determined by supply and demand, the prices discovered through these markets offer valuable economic information that determines how (and how much of) these commodities are produced and consumed.

²⁰ See 12 U.S.C. § 5462(6).

²¹ The list of globally systemically important financial institutions, as determined by the Financial Stability Board, is available at www.financialstabilityboard.org/publications/r_111104bb.pdf.

²² See 12 U.S.C. § 5462(6).

²³ The list of globally systemically important financial institutions, as determined by the Financial Stability Board, is available at www.financialstabilityboard.org/publications/r_111104bb.pdf.

²⁴ See 12 U.S.C. § 5462(6).

²⁵ This data is as of May 2, 2012. For a complete list of all of ICE Clear Credit’s clearing eligible products, see www.theice.com/publicdocs/clear_credit/ICE_Clear_Credit_Clearing_Eligible_Products.xls.

²⁶ See ICE Surpasses \$15 Trillion Milestone in Global CDS Clearing at <http://ir.theice.com/releasedetail.cfm?ReleaseID=545362>.

²⁷ As of May 10, 2012, ICE Clear Credit’s clearing members were: Bank of America, N.A., Barclays Bank PLC, Barclays Capital Inc., BNP Paribas, BNP Paribas Securities Corp., Citibank N.A., Citigroup Global Markets Inc., Credit Suisse International, Credit Suisse Securities (USA) LLC, Deutsche Bank AG, London Branch, Deutsche Bank Securities Inc., Goldman, Sachs & Co., Goldman Sachs International, HSBC Bank USA, N.A., HSBC Securities (USA) Inc., JPMorgan Chase Bank, National Association, J.P. Morgan Securities LLC, Merrill Lynch International, Merrill Lynch, Pierce, Fenner & Smith, Incorporated, Morgan Stanley Capital Services LLC, Morgan Stanley & Co. LLC, Nomura

International PLC, Nomura Securities International, Inc., Société Générale, The Royal Bank of Scotland plc, UBS AG, London Branch, and UBS Securities LLC.

²⁸ For example, a central counterparty will net member A's long exposure in one CDS index (formerly to B) and A's short exposure in a different, but risk-related CDS index (formerly to C), in determining A's collateral requirements.

²⁹ According to the Bank for International Settlements, "Amounts outstanding with central counterparties...increased to about 17% of the total market at end-June 2011, after reaching 15% at end-December 2010." The BIS report is available at: www.bis.org/publ/otc_hy1111.pdf.

³⁰ Derivatives Clearing Organization General Provisions and Core Principles, 76 FR 69334 (Nov. 8, 2011).

³¹ The CDS market plays a critical role in the U.S. financial system for financial market institutions because it facilitates lending and corporate finance activity among such participants, which can be crucial in a tight credit environment. In addition, just as equity investors use indexes (such as the S&P 500) to hedge against broad market moves, credit indexes serve a similar purpose for credit investors (protecting assets) and issuers (locking in advantageous issue levels).

³² See 12 U.S.C. § 5462(6).

³³ The list of globally systemically important financial institutions, as determined by the Financial Stability Board, is available at www.financialstabilityboard.org/publications/r_111104bb.pdf.

³⁴ See 12 U.S.C. § 5462(6).

³⁵ The list of globally systemically important financial institutions, as determined by the Financial Stability Board, is available at www.financialstabilityboard.org/publications/r_111104bb.pdf.

³⁶ A portion of the clearing fund assets must be used to collateralize the secured line of credit and will not be available in addition to the credit itself if the line of credit is drawn upon.

