VIII. Money Market Fund Reform & The Financial Stability Oversight Council

A. Introduction

During the 2008 financial crisis the Reserve Primary Fund ("RPF"), a money market fund, "broke the buck."[1] Despite only comprising 1.2% of the fund's assets, Lehman Brothers commercial paper holdings strained RPF to such an extent that it was unable to comply with the regulations required to maintain a stable $1 net asset value ("NAV").[2] Although RPF's ultimate loss was numerically small,[3] investors lost confidence in unrelated money market funds ("MMF"), which lead to mass redemptions.[4] During the week of September 15, 2008, investors redeemed roughly $300 billion from prime MMFs.[5] These massive withdrawals threatened MMFs' liquidity and depleted their cash positions.[6] With MMFs selling off vast amounts of commercial paper, the short-term credit market began to freeze up.[7] In the absence of MMF investment, borrowers were forced to pay considerably higher interest rates for short-term operating loans.[8] In order to prevent further market volatility, the

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[1] Amias Gerety, *Five Questions on the FSOC's Proposed Recommendations for Money Market Mutual Reform*, TREASURY NOTES BLOG (Nov. 27, 2012), http://www.treasury.gov/connect/blog/Pages/mmf-5-qs.aspx.

[2] *See generally* 17 C.F.R. § 270.2a-7 (2012) (requiring MMFs to calculate a "shadow NAV" for their underlying assets). Once the value of the MMF's underlying assets deviates from the $1 per share NAV by more than one half of one percent, the fund loses its ability to maintain a stable $1 NAV. *See id.*

[3] RPF lost less than one percent of its overall value. *See* Comment Letter from Federated Investors, Inc., to Fin. Stability Oversight Council 75 n.189 (Dec. 15, 2011), *available at* http:// www.sec.gov/comments/4-619/4619–112.pdf

[4] *See* Gerety, *supra* note 1.

[5] *See* INVESTMENT CO. INST., REPORT OF THE MONEY MARKET WORKING GROUP 62 (2009) [hereinafter ICI REPORT], *available at* http:// www.ici.org/pdf/ppr_09_mmwg.pdf.

[6] *See* Jill Fisch & Eric Roiter, *A Floating NAV for Money Market Funds: Fix or Fantasy?*, 2012 U. ILL. L. REV. 1003, 1020 (2012).

[7] *See* Gerety, *supra* note 1.

[8] *See* Fisch & Roiter, *supra* note 6, at 1020.

federal government intervened.[9] As a result of the crisis and ensuing government intervention, MMFs became a focal point for regulatory reform.[10] Although regulators have considered many reforms, the most significant would remove MMFs' key feature: their stable NAV. The latest call for reform comes from the Financial Stability Oversight Council ("FSOC") pursuant to its section 120 powers under the Dodd-Frank Act. The FSOC is urging the SEC, MMFs' primary regulator, to adopt additional regulations to address what it considers to be MMFs' ongoing systemic risks.

This article examines the renewed debate surrounding MMF reform culminating in the FSOC's current three-part proposal for increased MMF regulation. Parts A and B provide a brief overview of MMFs' role in the 2008 financial crisis and their general structure and strategy. Parts C and D detail the SEC's 2010 MMF reforms and the FSOC's current involvement. Parts E and F discuss the potential regulatory implications of the FSOC's use of section 120 and outline the FSOC's current proposal. Parts G and H discuss the public's reaction to the FSOC's proposal and offer closing remarks.

B. Money Market Funds: Structure & Strategy

MMFs are mutual funds that invest in short-term debt issued by highly rated borrowers such as corporations, financial institutions, and government bodies.[11] As such, they are a key source of short-term funding for such entities.[12]

MMFs' principle feature is a stable $1 NAV, which allows investors to redeem their shares for a fixed price of $1 per share.[13] In order to maintain a stable NAV, MMFs must comply with exacting

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[9] Kevin McCoy, *Reserve Fund's Woes Undercut Mantra of Safety, Liquidity*, USA TODAY (Nov. 14, 2008, 3:14 PM), http://usatoday30.usatoday.com/money/perfi/funds/2008-11-10-reserve-primary-money-market-fund_N.htm ("[T]he Treasury Department quickly announced a temporary insurance plan for the industry.").

[10] *See, e.g.*, FIN. STABILITY OVERSIGHT COUNCIL, PROPOSED RECOMMENDATIONS REGARDING MONEY MARKET MUTUAL FUND REFORM 4 (2012), *available at* http://www.treasury.gov/initiatives/fsoc/Documents/Proposed%20Recommendations%20Regarding%20Money%20Market%20Mutual%20Fund%20Reform%20-%20November%2013,%202012.pdf.

[11] *See id.* at 8.

[12] *Id*.

[13] Fisch & Roiter, *supra* note 6, at 1005.

statutory requirements.[14] Specifically, the fund must ensure that its underlying assets' market value stays in close proximity to the assets' book value.[15] If the distance between book and market value exceeds the statutory limit, the fund will lose the stable $1 NAV, better known as "breaking the buck."[16] The stable NAV is an attractive alternative to traditional deposit accounts because it allows investors to move cash without realizing capital gains, thus simplifying tax accounting and record keeping.[17]

Despite these advantages, using a stable NAV creates the potential for structural vulnerabilities.[18] Specifically, a "first-mover advantage" enables those investors who redeem first to do so at the stable NAV share price of $1, even if the fund's underlying assets are actually worth less.[19] In times of market volatility, this can create an incentive for investors to quickly redeem their shares, which can cause destabilizing runs that further exacerbate market instability.

C. 2010 SEC MMF Reform

The SEC took steps to improve MMFs' resiliency in 2010. The SEC amended Rule 2a-7[20] in order to (a) strengthen MMF's investment portfolios; (b) promote broader and timelier disclosure; and (c) give MMF boards the authority to suspend redemptions.[21] Specifically, MMFs' portfolios must have shortened maturities, heightened investment quality, and enhanced liquidity.[22] Further, MMFs must conduct periodic stress tests in order to test the stability of the fund's NAV and disclose their portfolio holdings every month.[23] Notably, during this round of reform the SEC considered but failed to adopt measures requiring MMFs to abandon a stable NAV in favor of a floating one.[24] However, the SEC explicitly

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[14] *See generally* 17 C.F.R. § 270.2a-7 (2012).
[15] *Id.* § 270.2a-7(c)(8).
[16] *Id.; see* Fisch & Roiter, *supra* note 6, at 1005.
[17] Fisch & Roiter, *supra* note 6, at 1016.
[18] *See* Gerety, *supra* note 1.
[19] *Id.*
[20] Rule 2a-7 permits MMFs to use a stable NAV.
[21] *See* Money Market Fund Reform, 75 Fed. Reg. 10,060 (Mar. 4, 2010) (to be codified at 17 C.F.R. pts. 270, 274), *available at* http://www.sec.gov/rules/final/2010/ic-29132.pdf.
[22] *Id.*
[23] *See* 17 C.F.R. §§ 270.2a-7(c)(10)(v)(A)-(c)(12) (2012).
[24] *See* ICI REPORT, *supra* note 5, at 104–112.

indicated that it intended to further consider this proposal and would welcome public comment.[25]

Despite this overhaul, some suggest that the 2010 reforms did not sufficiently address MMFs' structural vulnerabilities.[26] Former SEC Chairman Mary Shapiro and former U.S. Treasury Secretary Tim Geithner argue that the 2010 reforms failed to address two key MMF characteristics: (a) the lack of a capital cushion to absorb a loss in value of the portfolio and (b) the first-mover advantage.[27] The FSOC's current call for reform focuses on these two areas of concern.

D. FSOC Involvement & Current Debate

With the passage of the Dodd-Frank Act, Congress created the FSOC to identify risks to the United States' financial stability,[28] including systemic risks posed by nonbank financial institutions.[29] Under section 113 of Dodd-Frank, the FSOC deals mainly with identification and leaves substantive regulation to preexisting regulatory authorities.[30] However, if FSOC desires more stringent regulation, the Dodd-Frank Act grants the FSOC additional power.[31] Under section 120, the FSOC can issue recommendations to primary regulatory authorities to apply "new or heightened standards and safeguards" to bank holding companies or nonbank financial

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[25] *See* Money Market Fund Reform, 74 Fed. Reg. 32688, 32718 (proposed July 8, 2009) (to be codified at 17 C.F.R. pts. 270, 274), *available at* http://www.sec.gov/rules/proposed/2009/ic-28807.pdf ("We [SEC] request comment on the possibility of eliminating the ability of money market funds to use the amortized cost method of valuation. Would such a change render money market funds a more stable investment vehicle? Would it lessen systemic risk by making money market funds less susceptible to runs? Would it make the risks inherent in money market funds more transparent?").

[26] *See* Gerety, *supra* note 1.

[27] *See* Suzanne Elio, *Secretary Geither Sends Letter to FSOC Members on Necessary Money Market Fund Reforms*, TREASURY NOTES BLOG (Sept. 27, 2012), http://www.treasury.gov/connect/blog/Pages/geithner-fsoc-letter.aspx/

[28] Dodd-Frank Wall Street Reform and Consumer Protection Act § 112, 12 U.S.C. § 5322 (Supp. V 2011).

[29] *Id.* § 113.

[30] *See, e.g.*, *id.* § 115.

[31] *Id.* § 120.

companies within the respective regulator's original jurisdiction.[32] In so doing, the FSOC must provide the public notice and an opportunity to comment on the proposed recommendation.[33]

In August 2012, the SEC was deadlocked on whether to address additional MMF reform with at least three SEC commissioners not supporting increased regulation.[34] As a result, Schapiro announced that the SEC would not solicit public comment on further MMF structural reform.[35] In response, Geithner urged FSOC members to invoke section 120 and recommend that the SEC proceed with further MMF reform.[36] In the event that the SEC remained unwilling to take additional regulatory steps, Geithner further urged Council members to evaluate the MMF industry and identify firms that pose a systemic risk to be designated SIFIs.[37] On November 13, 2012, the FSOC unanimously voted to invoke section 120 and proposed three potential reforms.[38] This is the first time the Council has exercised its section 120 powers.[39]

E. Regulatory Implications

Under section 120, the FSOC merely has the ability to recommend additional regulation to a primary regulator, in this case,

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[32] *Id.*
[33] *Id.*
[34] Press Release, Daniel M. Gallagher & Troy A. Paredes, SEC Comm'rs, Statement on the Regulation of Money Market Funds (Aug. 28, 2012), *available at* http://www.sec.gov/news/speech/2012/spch082812dmgtap.htm; Press Release, Luis A. Aguilar, SEC Commissioner, Statement Regarding Money Market Funds (Aug. 23, 2012), *available at* http://www.sec.gov/news/speech/2012/spch082312laa.htm
[35] JAY G. BARIS & DWIGHT C. SMITH, MORRISON & FOERSTER, MONEY MARKET FUNDS: FSOC PROPOSES REFORMS 1 (2012), *available at* http://www.mofo.com/files/Uploads/Images/121113-FSOC-Reforms.pdf.
[36] *See* Elio, *supra* note 27.
[37] Under Title I of the DFA, the FSOC's main role is to identify nonbank financial institutions, among other entities, that pose a systemic risk to the U.S. financial system and designate them as Systemically Important Financial Institutions ("SIFI"). Once so designated, such nonbank financial institutions will be supervised by the Federal Reserve. *See id.*
[38] *See* Baris & Smith, *supra* note 35, at 1.
[39] *Id.*

the SEC.[40] In order to do so, section 120 requires that the FSOC determine, based on a series of factors,[41] whether MMFs "could create or increase the risk of significant liquidity, credit, or other problems spreading among . . . [the] financial markets of the United States."[42] Should the FSOC determine as much, it can proceed with the recommendation process.

However, some suggest that this step by the FSOC may raise more questions than it answers.[43] First, an FSOC recommendation is not legally binding or enforceable.[44] Once the FSOC has approved a recommendation, the primary regulatory authority must decide whether to initiate its own rule-making procedure.[45] Moreover, the FSOC's "floating NAV" and "stable NAV with a buffer" proposals have already been rejected by three of the five SEC commissioners.[46] Further, the FSOC's "three percent asset buffer" proposal is a variation of an alternative already proposed by two of the commissioners.[47] Given this state of affairs, what effect will a section 120 recommendation have? The dissenting commissioners have already explained why they rejected Shapiro's original reform proposal and what information they felt was lacking.[48] Further, Shapiro, the SEC's most ardent supporter of MMF reform, has since stepped down and is no longer involved in the regulatory debate. In its current form, the FSOC's recommendation adds little to the regulatory plans already proposed and will likely be faulted for similar reasons. Thus, unless new information is provided, the impact

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[40] *See* Dodd-Frank Wall Street Reform and Consumer Protection Act § 120, 12. U.S.C. § 5330 (Supp. V 2011).

[41] *Id.* (listing conduct, scope, nature, size, scale, concentration, or interconnectedness).

[42] *Id.*

[43] *See* BARIS & SMITH, *supra* note 35, at 2; Stephen A. Keen, *FSOC and Money Market Fund Reform: A Path to Nowhere*, REED SMITH LLP (Oct. 2012), http://www.reedsmith.com/FSOC-and-Money-Market-Fund-Reform-A-Path-to-Nowhere-10-08-2012/.

[44] *See* § 120(c)(2).

[45] *Id.*

[46] Joshua Gallu & Robert Schmidt, *SEC's Gallaher Calls for Floating Price for Money Funds*, BLOOMBERG (Sept. 27, 2012), http://www.bloomberg.com/news/2012-09-27/sec-s-gallagher-calls-for-floating-price-for-money-market-funds.html.

[47] *Id.*

[48] *Id.*

that the FSOC's recommendation will have on ultimate MMF reform is unclear.

F. FSOC's Proposed Reforms

The FSOC's recommendation consists of three alternative reforms that could be implemented separately or in combination. First, the FSOC proposes that MMFs could float their NAV. Second, the FSOC proposes that MMFs maintain a stable NAV but implement a capital buffer combined with a minimum balance at risk. Third, the FSOC proposes a stable NAV combined with a larger capital buffer to be implemented with other measures not including a minimum balance at risk.

1. Floating New Asset Value

The FSOC's first alternative would remove Rule 2a-7's exemption that allows MMFs to use amortized-cost accounting to maintain a stable $1 NAV and would require MMFs to float their NAV.[49] MMFs would be required to use mark-to-market valuations and value their shares like all other mutual funds.[50] Ideally, this would allow investors to more closely monitor the value of the MMF's underlying assets and eliminate the potential gap between the share price and asset value that a stable NAV permits.[51] Further, this would emphasize that MMF returns are not guaranteed.[52] Theoretically, by removing MMFs' ability to break the buck, investors would be less likely to lose confidence in MMFs' performance, thus reducing the likelihood of future runs.[53]

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[49] By using a floating NAV, MMF shares would be priced to reflect the actual market value of the MMFs' underlying assets. *See* Gerety, *supra* note 1; Elio, *supra* note 27.
[50] *See* Elio, *supra* note 27.
[51] *Id.*
[52] *See* BARIS & SMITH, *supra* note 35, at 1.
[53] *Id.*

2. Stable NAV with a NAV Buffer and Minimum Balance at Risk

The FSOC's second alternative would require MMFs to build a 1% asset buffer to absorb day-to-day price fluctuations.[54] This alternative would be combined with a "minimum balance at risk" ("MBR") requirement.[55] The MBR requires at least 3% of investors' maximum balance over the last thirty days be held for delayed redemption and be subject to first losses if the fund experiences a loss exceeding its NAV buffer.[56] Redemptions would be delayed for thirty days.[57] However, the MBR would not apply to MMFs that invest in treasury obligations or investor accounts worth less than $100,000.[58] Ideally, this proposal would improve MMFs' ability to withstand losses and offset the first-mover advantage.[59]

3. Stable NAV with a NAV Buffer and Other Measures

The FSOC's third alternative would require MMFs to build a 3% asset buffer that could be combined with other measures to increase the MMF's ability to withstand a run.[60] The other measures could include liquidity fees or temporary "gates" on redemption in lieu of a minimum balance at risk requirement.[61] The FSOC has stated that, if funds can "adequately demonstrate" that additional measures would reduce their structural vulnerabilities, it would consider reducing the asset buffer.[62]

[54] *See* Gerety, *supra* note 1.
[55] *Id.*
[56] *Id.*
[57] *Id.*
[58] *See* Proposed Recommendations Regarding Money Market Mutual Fund Reform, 77 Fed. Reg. 69455, 69456 (proposed Nov. 19, 2012).
[59] *See* Elio, *supra* note 27.
[60] *See* Proposed Recommendations Regarding Money Market Mutual Fund Reform, 77 Fed. Reg. at 69456.
[61] *See* Elio, *supra* note 27
[62] *See* Proposed Recommendations Regarding Money Market Mutual Fund Reform, 77 Fed. Reg. at 69456.

G. Public Response

A sixty-day public comment period began in November 2012.[63] Unsurprisingly, there were strong views on both sides of the debate. Given the debate, the scheduled comment period was extended by thirty days in January 2013 and ended on February 15, 2013.[64]

Those advocating against the FSOC's proposals argue that MMFs are one of the most successful financial products innovations and owe much of their success to their stable NAV.[65] In 2010, the SEC adopted broad regulatory reforms that significantly enhanced an already strict regime.[66] FSOC detractors suggest that the 2010 amendments make MMFs less susceptible to runs by imposing new credit quality, maturity, and liquidity standards and increasing required disclosure.[67] Specifically, opponents point out that these amendments proved effective during the summer of 2011 when MMFs successfully navigated huge volumes of investor redemptions and economic turmoil caused by U.S. debt being downgraded and the European sovereign debt crisis.[68] Further, despite Shapiro's best efforts, the SEC explicitly rejected a majority of the recommendations now offered by the FSOC and expressed great

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[63] *See* Donald N. Lamson & Sylvia Favretto, *FSOC's Risky Push for Money-Market Fund Reform*, AMERICAN BANKER (Feb. 20, 2013 12:00 PM), http://www.americanbanker.com/bankthink/fsocs-risky-push-for-money-market-fund-reform-1056877-1.html?zkPrintable=true.

[64] *See, e.g.*, *Update on Money Market Mutual Fund Regulatory Developments*, FIDELITY (Mar. 23, 2013, 8:45 PM), https://www.fidelity.com/mutual-funds/news-analysis/money-market-funds-statement.

[65] Comment Letter from the Inv. Co. Inst., to the Fin. Stability Oversight Council 1–2 (Jan. 24, 2013) [hereinafter ICI Comment Letter], *available at* http://www.ici.org/pdf/13_fsoc_mmf_recs.pdf.

[66] *Id.* at 2.

[67] *Id.*; *see* Comment Letter from Ass'n for Fin. Professionals, to the Fin. Stability Oversight Council 1 (Jan. 22, 2013) [hereinafter AFP Comment Letter], *available at* http://www.afponline.org/pub/gr/pdf/AFP_Comments_on_FSOC_MMF_Recommendations.pdf ("[W]e have been, and remain, largely supportive of rules already enacted by the SEC to improve the liquidity and transparency of MMFs. The market has not yet fully felt the impact of many of these rules. We believe that these rules instituted significant changes that will, on their own, substantially reduce the liquidity concerns and systemic risks posed by MMFs.").

[68] *See* ICI Comment Letter, *supra* note 65, at 2.

concern about proceeding with further regulation without additional analysis.[69] Opponents also suggest that the FSOC seems to have ignored the hundreds of comment letters opposed to such a proposal and has issued its recommendation despite clear indications that the SEC is actively considering the issue.[70]

Specifically, FSOC detractors argue that pursuant to section 120, the FSOC is only authorized to make recommendations pertaining to bank holding companies or nonbank financial companies and that the FSOC has failed to adequately demonstrate that MMFs qualify thereunder. Further, they argue that MMFs' scope, nature, size, and interconnectedness do not pose the "systemic risk" to the financial system of the United States required to invoke section 120.[71] Opponents also contend that treasury, government, and tax-exempt MMFs do not pose the same risks as other MMFs because their holdings are largely comprised of short-term government securities that are unlikely to default.[72] Further, detractors argue that a floating NAV would harm the market in that it would drive investors toward unregulated investment products and increase administrative complexity due to revised accounting implications.[73] Last, detractors believe that capital buffers and a minimum balance at risk would drive investors from MMFs.[74]

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[69] *Id.* at 3

[70] *Id.* at 4.

[71] *Id.* at 6; *see* Comment Letter from Sec. Indus. & Fin. Mkts. Ass'n, to the Fin. Stability Oversight Council 7 (Jan. 14, 2013) [hereinafter SIFMA Comment Letter], *available at* http://www.sifma.org/news/news.aspx?id=8589941488.

[72] *See* ICI Comment Letter, *supra* note 65, at 7.

[73] *Id.* at 8 ("[T]he principal impact . . . would be a major restructuring and reordering of intermediation in the short-term credit markets. It is very likely that institutional investors would continue to seek out diversified investment pools that strive to maintain a stable value. Most of these pools are not regulated under the Investment Company Act—and some of them lie beyond the jurisdictional reach of U.S. regulators. Regulatory changes that push assets from highly regulated, transparent products—*i.e.*, money market funds—to less-regulated and less-transparent products arguably serve to increase systemic risk"); *see* AFP Comment Letter, *supra* note 67, at 1.

[74] *See* ICI Comment Letter, *supra* note 65, at 9–10 ("Alternative Two's MBR restriction would impair a core mutual fund investor protection and reverse more than 70 years of SEC practice in fund regulation. Moreover, investor reaction to continuous redemption restrictions suggests that an MBR would greatly reduce investor use of money market funds. One survey

Ultimately, those against the current FSOC proposals argue that MMF regulatory reform should be guided by two fundamental principles: that the key features that made MMFs successful should be preserved and that investors should be provided a choice by preserving a healthy and competitive MMF industry.[75]

On the other side of the debate, the presidents of the twelve Federal Reserve Banks ("FRB Presidents") generally favor the FSOC's proposed reforms.[76] They argue that under any reform, MMF's NAV should reflect the market value of the funds' assets at the time of the relevant transaction rather than an amortized value allowed under current MMF regulation.[77] The FRB Presidents have proposed more sweeping reforms than the FSOC by favoring eliminating MMFs' ability to use a stable NAV under any FSOC alternative.[78] They claim that MMFs, as currently structured, have little ability to absorb losses in the event of a run created by a first-mover advantage.[79] Under the first FSOC alternative, a floating NAV addresses this risk by eliminating the first-mover advantage and the negative effects associated with breaking the buck since MMF investors would better understand that their investments are not guaranteed and will change in value along with the fund's underlying assets.[80] Under the second FSOC alternative, a NAV buffer combined with a MBR could effectively reduce the risk of runs by discouraging early redemptions by retaining an investor's MBR in the event that the fund suffers a loss.[81] Further, the FRB Presidents believe that this alternative could effectively communicate the risk of loss associated with MMF investment.[82] Under the third FSOC

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of institutional investors indicates that institutional assets in money market funds would shrink by two-thirds if such restrictions were imposed."); AFP Comment Letter, *supra* note 67, at 2.

[75] *See* ICI Comment Letter, *supra* note 65, at 4; AFP comment letter, *supra* note 67, at 1.

[76] *See* Comment Letter from Presidents of the Fed. Reserve Banks, to the Fin. Stability Oversight Council 1 (Feb. 12, 2013), *available at* http://www.bostonfed.org/news/press/2013/pr021213-letter.pdf.

[77] *Id.* at 3.

[78] *Id.* ("Because accurate market-based NAVs are important in all reform alternatives, we agree with the elimination of amortized cost provisions of rule 2a-7 under all Council alternatives.")

[79] *Id.* at 2.

[80] *Id.* at 5.

[81] *Id.* at 6

[82] *Id.*

alternative, the FRB Presidents contend that although the 3% buffer will reduce the risk of runs and first-mover advantage by providing a loss-absorption-buffer, it does not eliminate the potential "cliff effects" because the alternative would retain a stable NAV. [83] Further, the FRB Presidents suggest that the decrease in the first-mover advantage would depend on whether investors are confident that the buffer is large enough to absorb losses.[84]

H. Conclusion

The FSOC is currently considering the comments and will then issue a final recommendation to the SEC. The SEC will then be required to implement the reforms or explain why it has not within ninety days of the recommendation.[85] Although some in the financial services industry assume that some level of increased regulation is inevitable,[86] a larger question looms regarding section 120 and the FSOC's regulatory role going forward. As noted above, the FSOC has no authority to directly regulate MMFs or impose its will on the SEC. As this was the first time the FSOC invoked section 120, the SEC's reaction to the recommendation will likely have important precedential effects. Given the quick response time, the SEC's prior view on the proposed reforms, and the personnel turnover at the SEC,[87] it is an open question as to what effect the FSOC's recommendation will have.

Given this state of affairs, some have suggested that the FSOC is taking a gamble by invoking section 120 at all.[88] If the SEC declines to adopt the FSOC's recommendation, the FSOC could appear weak.[89] If the SEC adopts the reforms, some might conclude that the FSOC, a non-expert body, has too much control over specialized regulators.[90] In either case, FSOC intervention could be costly. The SEC's response to the FSOC's call for reform will go a

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[83] *Id.* at 5.
[84] *Id.* at 6.
[85] *See* Dodd-Frank Wall Street Reform and Consumer Protection Act § 120(c)(2), 12 U.S.C. § 5330 (Supp. V 2011).
[86] *See, e.g.*, *Update on Money Market Mutual Fund Regulatory Developments*, *supra* note 64.
[87] *See* Lamson & Favretto, *supra* note 63.
[88] *Id.*
[89] *See generally id.*
[90] *See generally id.*

long way towards determining MMFs' viability as a financial institutions and the extent of the FSOC's powers under section 120. However, given the pattern of reform established thus far, even if the FSOC's current recommendation is rebuffed, one should not be surprised to see renewed attempts in coming years.

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