



# *FedFin Daily Briefing*

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Friday, July 31, 2020

## **Dems Demand CFPB Action on Alternative-Data Underwriting**

Sens. Brown (D-OH), Warren (D-MA), and Harris (D-CA) [today](#) demanded that the CFPB take immediate action to address ECOA and Reg B violations resulting from lender use of educational data in credit underwriting, urging new guidance, supervisory examinations, and even enforcement investigations to address the practices they say create a significant risk of unlawful discrimination. Releasing a report finding that some lenders use educational data such as an applicant's school or major to make credit determinations, they recommend that the CFPB cease issuance of No Action Letters related to ECOA to all lenders and companies under its jurisdiction on apparently any ECOA topic and its decision to strip the CFPB's Office of Fair Lending of its supervisory and enforcement duties. The report also encourages creditors to conduct voluntary self-tests to determine compliance with ECOA and Reg B. As noted in our in-depth analysis today ([see FSM Report FAIRLEND7](#)), the CFPB has issued an RFI seeking views on ECOA discrimination without providing any insight into future action. We do not expect the CFPB to change course on alternative data based on this letter, but it points to concerns raised – but only partially resolved – in recent inter-agency guidance on alternative data to which the CFPB is a party ([see FSM Report FCRA29](#)). Future action by all of the agencies will depend on the political climate in which ECOA decisions are made.

## **Postal Banking Takes Small Step Forward**

The House has packaged six appropriation measures into a “minibus” bill (H.R. 7617) approved as seems increasingly usual on party lines by a 217-197 vote. Included in the measure and a target of particular [GOP objections](#) is an amendment by Reps. Pascrell (D-NJ) and Kaptur (D-OH) appropriating \$2 million to the U.S. Postal Service for pilot postal-banking programs. These are to involve installation of surcharge-free ATMs and handle wire transfers, check cashing, and bill payments. The amount involved is so small as to suggest such pilots would be very limited, but they may still establish a basis for future action on far broader postal-banking bills ([see FSM Report POSTAL9](#)) or even the more revolutionary integration of postal banking and “Fed Accounts” ([see FSM Report CBDC](#)). The Senate has yet to act on its appropriations package and, in any case, final agreement on FY21 spending will almost certainly await an omnibus bill or continuing resolution before the end of the current fiscal year on September 30 or thereafter if a government shutdown looms as many now fear. Republicans generally oppose postal banking but may not make a major issue of this amendment if Democrats press for it and higher-profile disputes are being negotiated.

## **Brown, Warren Threaten Powell, Fed Construct to Counter Leverage-Relief Proposal**

Building on the vituperative tone Democrats are increasingly taking to discussions of any leverage-ratio relief, Sens. Brown (D-OH) and Warren (D-MA) today made it clear that, while they are taking a hands-off position for now with regard to Chairman Powell, they will expand their criticism of Vice Chairman Quarles – now strong and personal – to press the Fed to engage in what some consider

fiscal actions if what they believe to be undue advocacy continues. HFSC Chairwoman Waters (D-CA) earlier this week said Senate Republicans [should be ashamed of themselves](#) for contemplating capital relief, but the senators [take direct issue](#) with Mr. Quarles, calling his recommendation “outrageous and irresponsible.” Noting that Mr. Powell was circumspect about his view on [leverage-ratio change](#), the senators more [cordial letter](#) to the chairman argues that Mr. Quarles is engaged in inappropriate Congressional advocacy with Senate Republicans that put the Fed in an “untenable position.” Mr. Powell is urged not to “undermine” his reputation or the Federal Reserve as a whole by countenancing continued actions of this sort by the Vice Chairman.

## FHFA Fires Warning Shot at Mortgage Originators

Along with extending the authority granted to the GSEs to buy certain loans in forbearance until the end of August, the FHFA today [announced](#) that it will shortly share data with the CFPB to ensure that loans are originated only to borrowers who were likely to meet the qualified-mortgage “ability to repay” criterion. Although all loans sold to Fannie and Freddie are technically QMs as long as the “patch” prevails, FHFA states that lenders must ensure sustainable home ownership. The announcement does not indicate what action might be taken by either FHFA or the Bureau if loans are identified that might not have been originated but for ongoing GSE purchases. The announcement also reiterates that controversial fees associated with [these purchases](#) will remain.

### Recent Files Available for Downloading

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The following reports and analyses have been sent to retainer clients recently. Copies are also available to retainer clients on the Archives section of Federal Financial Analytics’ website: [www.fedfin.com](http://www.fedfin.com) or clients may obtain the reports/analyses by e-mailing [requests@fedfin.com](mailto:requests@fedfin.com) giving the requested item name, firm, and e-mail address. To learn more about GSE Activity Reports, click: [http://www.fedfin.com/index.php?option=com\\_content&view=article&id=18&Itemid=18](http://www.fedfin.com/index.php?option=com_content&view=article&id=18&Itemid=18)

- [GSE-073120](#): When we looked at the [GSEs 1Q earnings](#), we asked if it was “curtains for CRT.” The question came then because of the sudden rout in CRT counterparties caused by March’s market madness.
- [FAIRLEND7](#): The Bureau of Consumer Financial Protection has opened a sweeping inquiry into how credit discrimination occurs and could be averted, seeking comments and suggestions without indicating any possible policy responses
- [CONSUMER35](#): As in yesterday’s Senate Banking hearing ([see Client Report CONSUMER34](#)), today’s marathon HFSC session with CFPB Director Kraninger was highly contentious.

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- [\*\*GSE-073020\*\*](#): Fannie Mae's and Freddie Mac's 2Q earnings statements reveal for the first time that FHFA on June 17 imposed a new liquidity regime akin in some respects to the banking agencies' LCR and never-finalized NSFR along with various other liquidity and resiliency standards for GSIBs.
- [\*\*CONSUMER34\*\*](#): As expected, Democrats led by Ranking Member Brown (D-OH) sharply criticized CFPB Director Kraninger at the contentious Senate Banking hearing, citing a lack of enforcement actions and pandemic measures on [credit reporting](#) and mortgage forbearance.
- [\*\*GSE-072720\*\*](#): In recent in-depth analyses, we assessed the OCC's new valid-when-made doctrine and its latest proposal to define who is deemed a "true lender."
- [\*\*PREEMPT34\*\*](#): As promised by Acting Comptroller Brooks, the OCC has quickly followed up its controversial valid-when-made rule with a proposal defining "true lender" to facilitate the partnerships between banking organizations and other financial companies sometimes called "rent-a-bank" charters.
- [\*\*GREEN3\*\*](#): Building on its 2017 [climate-change disclosure work](#), the FSB issued what it describes as a "stocktake" – i.e., a survey combined with next steps – in this increasingly critical area.
- [\*\*GSE-071720\*\*](#): A new Federal Reserve Bank of New York staff paper sheds timely light on the impact of foreclosure-mitigation efforts on long-term housing markets and household wealth.
- [\*\*SBA39\*\*](#): In this report, we assess the financial policy implications of the wide-ranging House Small Business Committee hearing with Treasury Secretary Mnuchin and SBA Administrator Carranza.
- [\*\*MORTGAGE117\*\*](#): In this report, we assess the HFSC Oversight and Investigations Subcommittee hearing on mortgage servicing.
- [\*\*GSE-071520\*\*](#): FSOC has officially begun the activity-and-practice designation of the secondary-mortgage market foreshadowed [in FSOC's annual report](#).
- [\*\*TBTF23\*\*](#): Moving cautiously to assess the extent to which large banks are no longer too big to fail (TBTF), the FSB has gone beyond a request for comment to a somewhat more specific solution that may lead to policy actions not yet spelled out for public comment in this report.