



FedFin Daily Briefing

Thursday, August 13, 2020

BSA/AML Enforcement gets Lighter Touch

Responding to longstanding industry requests, the federal banking agencies and NCUA [today](#) updated their BSA/AML enforcement guidance to make it clear to industry and examiners alike that isolated or technical violations or deficiencies generally do not warrant mandatory cease and desist enforcement actions. If this policy prevails, then M&A and other expansions or strategic actions should no longer be barred or delayed due solely to AML issues that do not rise to an agreed-upon level of significance. The agencies will continue to issue mandatory cease and desist orders if institutions fail to maintain a reasonably-designed BSA/AML compliance program or to correct a previously-reported, substantive problem. To necessitate a cease and desist order, deficiencies must be so severe as to render the compliance program ineffective as a whole; violations of individual pillars of BSA/AML obligations now do not require a cease and desist order, instead meriting examiner criticism and/or reduced supervisory action. Complex institutions will now have their compliance programs assessed across all business lines, with deficiencies affecting only some lines or activities leading to a cease and desist order only if they mean that the institution lacks an effective overall compliance program. Although FinCEN generally joins the agencies in this new, lighter-touch policy, a separate issuance from FinCEN is forthcoming.

Brainard Charts Slow, but Determined Course to CBDC

In tandem with an [update](#) from the Fed, FRB Gov. Lael Brainard [today](#) announced a new Fed approach to developing CBDC, making it clear that the U.S. central bank is moving – if only very slowly and tentatively – to action already well under way in many other central banks. The Fed's initial work – which Gov. Brainard said will take years – begins with a formal research and experimentation program announced today with MIT. As noted in our in-depth analysis today of FedNow ([see FSM Report PAYMENT20](#)), has taken the Fed over a decade to launch its instant-payment system; should it take that long also to construct CBDC, other digital currencies may well advance both within the U.S. and in cross-border payments in ways that adversely affect the interbank-clearing ecosystem the FRB plans via FedNow. Acting Comptroller Brooks [today](#) strongly opposed government control of both the payment system and digital currency, laying out various private-sector efforts he believes will not only overtake the FRB, but also should do so.

Although the Fed's plans are clearly preliminary, the FRB has already decided that any CBDC it releases will be a complement to the dollar, with Ms. Brainard noting the continuing importance of cash. As noted in a recent [EconomicEquality blog post](#), the U.S. remains a cash-focused money system and it thus appears that U.S. CBDC would be both token and account-based. Whether CBDC is also legal tender is, she said, an uncertain legal question the Board will consider. Although the FRB has been an observer in global central-bank CBDC work, it will now take a more hands-on role in part, the Fed announcement suggests, to preserve the role of the dollar as the global reserve currency.

Recent Files Available for Downloading

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 or clients may obtain the reports/analyses by e-mailing 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

- **[PAYMENT20](#)**: Following a request for views in late 2019, the Federal Reserve has largely finalized its plans for FedNow, initiating a Fed-owned and -operated instant-payment service for domestic transactions.
- **[GSE081320](#)**: The GSEs' decision last night to charge a 50 bps refi fee epitomizes the impact of capital regulation:
- **[FEDERALRESERVE58](#)**: Senior Democrats in both the House and Senate have introduced legislation that turns a general call for a "racial-equity mandate" in campaign statements by Vice President Biden into an express directive to conduct monetary, regulatory, payment system, and other policy to reduce racial and ethnic economic disparities.
- **[GSE-080420](#)**: Earlier today, we [released](#) an in-depth assessment of a little-noticed, but ground-breaking statement [released](#) late yesterday by the Federal Financial Institutions Examination Council (FFIEC).
- **[COVID12](#)**: The four federal financial regulators along with the CFPB and a state-regulatory representative that comprise the FFIEC have issued new principles designed to guide banking organizations and other lenders through the challenges as forbearance deadlines loom across the spectrum of consumer and commercial loans for financial institutions large and small at a time of fiscal-policy uncertainty.
- **[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.
- **[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.

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- **[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.