FedFin Daily Briefing

Tuesday, August 25, 2020

FSB Suspends G-SII Designations but Advances Resolution Methodology

Building on its 2011 resolution "attributes" (see FSM Report **RESOLVE8**) and on an insurance-specific set issued in 2014 (see FSM Report **INSURANCE43**), the FSB today issued a methodology designed to enhance the resolvability of systemic or infrastructure-critical insurance groups. However, in concert with this notice, the FSB announced that, because systemic designations for insurers are suspended due to COVID, designations will not resume until 2022 and then only if the FSB thinks this appropriate. The methodology should, however, be undertaken now by national jurisdictions to evaluate insurance resolvability in systemic or critical arenas. The methodology also dictates how the FSB will conduct national peer reviews and otherwise determine the extent to which a jurisdiction complies with the insurance-resolvability attributes. The IMF and other global bodies will also use this methodology in judging national financial systems, with the FSB suggesting that nations make use of it also to assess their own resolution systems and, if necessary, improve them. As noted, the U.S. has long been an outlier in the global framework due to the state – not federal – nature of U.S. insurance regulation and, thus, resolution.

CFPB Opens Credit-Card Lending to a World of Change

The CFPB today released a request for information (RFI) on credit-card lending since the 2009 CARD Act (see *Client Report* **CREDITCARD34**), doing so under the auspices of regulatory-relief law mandating periodic review to ensure that small entities are not unduly harmed by implementing rules. Although the law expressly covers only small entities, reviews such as this one have in the past also led the banking agencies to more industry-wide regulatory revisions. In conjunction with the CARD Act assessment, the Bureau is also seeking views on the credit-card market. The RFI details an array of issues in both inquiries on which the CFPB seeks comment, with the Bureau for example assessing the credit-availability implications of various CARD Act provisions. As noted in a recent alert, staff at the Federal Reserve Bank of Philadelphia have found that various fee restrictions and other provisions in the Act adversely affect nonprime borrowers. However, the CFPB's analysis can only change rules not expressly required by law, making it unclear if these and other controversial effects can be reduced or reversed. The market-focused study looks at questions such as market concentration, pricing, disclosures, and innovation. The RFI is lengthy, detailing extensive CFPB research to set the threshold for specific questions on which views are sought. Among many other issues sure to be brought back into this focus by the RFI, we note the likelihood that merchants will use this opportunity to demand interchange-fee restrictions on credit cards akin to those mandated by the Dodd-Frank Act on debit cards (see FSM Report **INTERCHANGE7**). The CFPB of course cannot mandate fees not authorized by law, but it could impose additional restrictions that might at the least substitute for them. Comments on both inquiries are due sixty days after *Federal Register* publication.

Senate Dems: Financial Rules Must Recognize, Reduce Climate Risk

The Senate Democratic Special Committee on the Climate Crisis today released a wide-ranging report on building a "clean" economy, making several recommendations for federal financial regulators. All federal financial agencies are told to include explicit discussions of climate risks in annual reports and immediately to join international counterparts to understand climate financial risks. Led by the Fed, the agencies are also to develop climate-scenario analysis tools and stress test individual firms to measure resilience to climate risk. The agencies are also told in general terms to "adjust" risk weights for brown activities, a follow-up to a recommendation from global regulators that they and nations consider a "brown" capital penalty (see Client Report **GREEN**).

FSOC is also told to assess risks to the financial system as a whole. The OCC, FDIC, and NCUA are instructed to incorporate climate risks into their supervisory practices, while FIO is told to assess the insurance industry's vulnerability to climate risks and make recommendations to state commissioners on mitigating them.

In addition, the SEC is told to issue updated rules on the disclosure of climate risks by public companies, take enforcement actions against companies that fail to do so, clarify that climate-risk consideration does not violate fiduciary duty and may even be required by it, and require rating agencies to incorporate climate financial risk into core rating methodologies.

FHFA Concedes, Refi Fee Delayed

Following widespread criticism from industry, Congress, and the White House, FHFA today directed the GSEs to delay their refi fee until December 1. As noted, we expected a delay to be the most likely compromise. Senate Banking Chairman Crapo (R-ID) previously pressed FHFA on why the fee was taking effect so soon, as did Senate Dems. FHFA also announced today that refis with loan balances below $125,000 will be exempt from the fee, noting that nearly half of these are for low-income borrowers.

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

- **MORTGAGE118**: Despite its pending proposal to overhaul the entire definition of loans eligible for qualified-mortgage (QM) status, the CFPB proposes also to establish an additional class of first-lien, fixed-rate mortgages that are QMs or given a rebuttable presumption of QM status.

These loans must meet an array of restrictions, including those comparable to those otherwise governing QMs and those subject to rebuttable presumptions, except for a hard debt-to-income (DTI) ceiling and proposed pricing constraints.

- **GSE-082520:** The CFPB's proposal to allow QM treatment for certain seasoned mortgages will rewrite a decade's worth of securitized lending if macroeconomic and interest-rate conditions turn favorable.

- **GSE-082020:** A new study from FDIC staff challenges the predictive models on which much mortgage underwriting increasingly depends, discrediting both workhorse predictive models used across the spectrum of consumer credit as well as the ML-based mortgage models that fare still worse as macroeconomic, policy, and borrower conditions change.

- **GSE-081920:** Weighing into the GSE-evolution question with its formidable analytical might, CBO today assesses a likely administrative solution in which the GSEs retain all of their earnings for a limited period of time following which common stock goes again on offer to the public and Fannie and Freddie go back to being Fannie and Freddie more or less as they were pre-2008.

- **OPSRISK21:** Although the Basel Committee believes that its post-crisis capital and liquidity framework significantly enhanced bank resilience evident in a robust industry response to the pandemic, this crisis and other developments are said to highlight the need for additional regulatory and supervisory work to improve operational resilience.

- **GSE-081720:** With the release late Friday of Chairman Crapo's letter to FHFA, the GSEs' refi fee announcement has taken fire from a high-impact Senate Republican along with Ranking Member Brown and HFSC Democrats

- **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.

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- **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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