



# *FedFin Daily Briefing*

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Wednesday, September 16, 2020

## **FinCEN Begins Structural Overhaul of U.S. AML Regime**

Kickstarting a structural revamp of U.S. AML regulation, FinCEN today [issued](#) an advance notice of proposed rulemaking designed to create more tailored enforcement objectives across the scope of all entities now subject to Bank Secrecy Act requirements. Indeed, reflecting widely-different business models, the ANPR even asks if sector-specific regimes (e.g., for mutual funds or GSEs) are warranted. A new focus on “efficiency” would also create opportunities for regtech on which comment is solicited. Reflecting recommendations such as those from a Congressionally-mandated working group, global developments, and technology advances, FinCEN also seeks views on a new process in which FinCEN would set biennial AML priorities to guide industry compliance-resource allocation, ways to ensure high-quality reporting submissions to FinCEN, and improved information sharing. We will shortly provide clients with an in-depth analysis of this ANPR, which we think will generally guide FinCEN in 2021 and beyond regardless of Administration change. Comments will be due sixty days after *Federal Register* publication.

## **Wyoming Charters First Digital-Custody Bank with Services Suite**

Reflecting the very fast-paced advance of new bank charters, Kraken today [announced](#) that the State of Wyoming has approved a “special-purpose depository Institution” described as a bank “largely” subject to state and federal law under a charter now unique to Wyoming. The entity is said also to be the first digital-asset company to receive a banking license customers could use to “move seamlessly” between digital and fiat-currency assets for a wide range of operational and investment purposes.

The company describes its charter as that of a custody bank that under Wyoming law must be 100 percent reserved against customer deposits. Calling this superior to FDIC insurance, the bank [joins](#) Jiko as banks working with or even independently of the FDIC to take conventional demand deposits and offer debit cards and payment services. Over time, the bank also plans to offer custodial services to broker-dealers as well as wealth management and treasury services.

Wyoming’s website is down or the Kraken announcement is faulty, so we cannot confirm the representations above. The bank says also that Wyoming has yet to finish the manual laying out of how these charters may operate but nonetheless granted this charter. It may be comparable to the custody national-bank charters the [OCC recently authorized](#) via an interpretive letter even though a broader ANPR on policy issues has yet to advance on its own ([See FSM Report CUSTODY4](#)). As noted, Kraken’s services go far beyond traditional custody banking, but the OCC’s case-by-chase chartering policy models do not permit evaluation in the absence of a rule on which services the Comptroller would consider to be consistent with custody banking.

## Powell Defends Make-Up Policy, Refutes Facility Criticism

In his briefing today following the FOMC [statement](#), Chair Powell emphasized the “strong and powerful” nature of new forward guidance despite numerous questions about what words such as a “strong labor market” or “maximum employment” mean in practice other than a 3.5 percent unemployment rate. The term “moderate” for inflation was also questioned, as was the extent to which the “average” two-percent rate could really be reached and even exceeded in the foreseeable future if the FOMC does not project a two percent rate at all until year-end 2023. The Fed chair doubted that extremely accommodative policies would spark asset-price bubbles, including any within the housing market. Further, regulatory or even fiscal policy are best suited to address financial instability, not monetary policy. On financial policy, Mr. Powell signaled near-term announcements about bank stress tests but refused to provide any indication of what these might contain. Mr. Powell also reiterated strong support for the Main Street Lending Program’s cautious approach but also suggested some changes may be under way to reduce bank underwriting constraints aimed at “zero-risk” targets. Mr. Powell rejected suggestions that the Fed target commercial real estate because, he said, borrowers are already eligible under other facilities, all of which must also be “broad-based” under law. Congress, not the Fed, may need to intervene for this sector. Questioned often about economic inequality, Mr. Powell renewed his expressions of concern with particular regard to racial equity but also restated the Fed’s position: other than with regard to Fed research, these are issues only for fiscal policy.

## FHFA Plans Capital Reg Largely As Is – Detailed FedFin Report to Follow

[As anticipated](#), today’s marathon HFSC hearing with FHFA Director Calabria covered a wide-range of issues we will shortly analyze in detail due to the policy and strategic importance of several exchanges. Fielding questions from both sides of the aisle on changes to the [GSE capital proposal](#), Mr. Calabria made it clear that the rule will be issued largely as proposed as quickly as possible. However, Republicans and some Democrats urged CRT revision, a section [we earlier forecast](#) among the few likely to see substantive change in final form. The [GSEs’ refi fee](#) also took bipartisan fire, although Member McHenry (R-NC) praised revisions and Rep. Hollingsworth (R-IN) defended it as appropriate in lieu of taxpayer cost.

### 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)

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- **[FAIRLEND8](#)**: HUD has largely finalized a controversial fair-housing rule as proposed, with the new standards for adjudicating fair-housing disputes giving defendants numerous additional protections.
- **[GSE-091020](#)**: As we [noted yesterday in our in-depth analysis](#), a CFTC subcommittee has issued a landmark [report](#) laying out an array of climate-change risks it urges policy-makers to prioritize to prevent systemic and sector risks.
- **[COVID14](#)**: Today's Senate Banking hearing on the status of emergency Fed facilities showed even more clearly the dividing lines between Democrats and Republicans on changes to the Main Street Lending program than the CARES Act Congressional Oversight Commission's [recent hearing](#).
- **[GREEN4](#)**: In this report, we analyze an influential and possibly even game-changing [paper](#) released today by the CFTC's Climate-Related Market Risk Subcommittee.
- **[GSE-090320](#)**: As noted in our three summaries of key FHFA comment letters, FHFA was not exactly overwhelmed by heartfelt praise for its GSE capital rule.
- **[COVID13.pdf](#)**: As anticipated, today's House Select Subcommittee on the Coronavirus Crisis hearing with Treasury Secretary Mnuchin reflected contentious negotiations over a phase four rescue package.
- **[GSE-090120](#)**: In this analysis, we continue our assessment of comment letters to FHFA on the [capital proposal](#).
- **[GSE-083120a](#)**: In this report, we begin our assessment of the comment letters on FHFA's [capital proposal](#) that we believe carry the most weight in terms both of FHFA's final rule and what Congress may care to do about it.
- **[GSE-083120](#)**: A new Fed staff study finds wide disparities among the mortgage rates borrowers pay on exactly the same loan that has nothing to do with risk and apparently everything to do with borrower sophistication.
- **[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.
- **[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 50bps refi fee epitomizes the impact of capital regulation.