# FedFin Daily Briefing

**Thursday, October 1, 2020**

## Fed Extends Intraday-Credit Relief Measures

Continuing its efforts to provide pandemic relief, the FRB today extended temporary actions taken earlier this year to increase the supply of intraday credit available from Federal Reserve Banks through March 31. Specifically, the Fed is extending the suspension of uncollateralized intraday credit limits and will continue to waive daylight overdraft fees for institutions that are eligible for the primary credit program. It will also continue to permit a streamlined procedure to request collateralized intraday credit for institutions that are eligible only for the secondary credit program. The collection of information under the Annual Daylight Overdraft Capital report for branches and agencies of FBOs remains suspended. The actions were set to expire September 30.

## The New M&A Construct

Following our assessment yesterday of the Fed's stress-test conclusions, we turn to a little-noticed aspect of the Board's deliberations: votes by Gov. Brainard not only against remaining dividend flexibility, but also two significant M&A transactions in the context of the Department of Justice's pending antitrust rewrite of bank M&A (see Client Report **MERGER5**). Even if the election does not alter the U.S. political landscape, it is clear that large or innovative transactions face additional hurdles.

The transactions opposed by Gov. Brainard and thus approved by a 4-1 FRB vote are Morgan Stanley's E*TRADE acquisition and TD's acquisition of shares in Charles Schwab following Schwab's acquisition of much of TD's U.S. brokerage infrastructure. Although TD's position is not controlling, it will have significant business relationships with Schwab, pointing also to the importance of the Fed's recently revised "control" definition (See FSM Report **TAKEOVER10**).

Both deals raised controversial concentration issues focusing on retail-brokerage market concentration and possible conflicts of interest between these services and others offered by each holding company. The Board in fact expanded its competitive analysis to look not only at traditional banking, but also at brokerage, asset management, fiduciary, and other services, thus bringing in analysis of the nonbanking sectors that, while addressed in other approvals, are under renewed scrutiny due to the DoJ inquiry and broader policy and political considerations. Gov. Brainard's concerns were not laid out in any statements on these transactions, but we view them as warning shots.

## Democrats Demand Reversal of OCC Effort to Force Fossil-Fuel Finance

Sens. Schatz (D-HI), Whitehouse (D-RI), Feinstein (D-CA), Booker (D-NJ), and Merkley (D-OR) yesterday sent a letter to Acting Comptroller Brooks challenging his plans to investigate national banks with policies he believes discriminate against fossil-fuel related credit, a policy taken with particular reference to Arctic-development disputes. Mr. Brooks is told by the senators that federal financial regulators lack authority to fund specific projects, especially if a loan runs counter to a bank's own risk assessment. The letter details the financial risks senators believe are posed by a major Arctic project along with reputational and climate concerns, demanding answers to a series of questions by October 26. These seek views on matters such as the Comptroller's legal rationale, whether the Chief Counsel concurs, whether this issue was discussed with the oil-and-gas industry, and the views of other regulators. Regardless, we doubt Mr. Brooks will defer action based solely on this inquiry.

# COVID, New Charters Shift OCC's Supervisory Focuses for 2021

Showing the extent to which the pandemic drives the regulatory agenda, today's OCC FY21 bank supervision operating plan largely focuses on ensuring bank safety and soundness despite weakening economic conditions. This is a significant shift from the FY20 plan.

Credit risk management tops the OCC's new list, with examiners told to focus on commercial and retail controls. Compliance risk management associated with pandemic-related activities, allowances for loan and lease losses, credit losses given eased underwriting standards despite higher risk, and fair-lending violations resulting from loan accommodations also require heightened attention. Commercial and residential real estate concentration risk management is also a priority, with examiners told to focus on portfolios with material concentrations in hard-hit sectors including CRE. With an eye on possible new charters, the OCC's plan also targets payment-systems products and services, with examiners told to assess potential operational, compliance, strategic, and reputation risks. Reflecting the Acting Comptroller's support for "rent-a-bank" charters, third-party service providers remain an OCC focus, but this is now targeted at cyber-security, operational risk, and resiliency.

## 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

- **GSE-100120**: A troubling new IMF staff paper looks at U.S. housing policy since COVID to uncover some worrisome aggregate and distributional effects.

- **CRYPTO15**: Continuing Acting Comptroller Brooks' efforts to enhance innovation at national banks and federal savings associations, the agency has now authorized these institutions to hold reserves associated with certain stablecoin offerings.

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- **GSE-092820**: Following its morning meeting, FSOC late Friday released the staff statement expressing its near-term decision on systemic risk in the secondary mortgage market.

- **AML132**: FinCEN is beginning a process that, while apparently not revising or eliminating any existing anti-money laundering (AML) requirements, would add an over-arching principle that AML programs be efficient, "reasonably-designed," and capable of providing high-quality information to law enforcement and other government entities.

- **COVID15**: HFSC's second CARES Act-required hearing with Treasury Secretary Mnuchin and FRB Chair Powell continued to stress the theme that has become apparent ever since negotiations on a Phase IV relief bill stalled: Democrats primarily want additional direct fiscal support and Republicans are pushing for adjustments to existing relief programs funded by unused 13(3) Treasury backstops.

- **GSE-092220**: As usual, FHFA's new strategic plan is more rhetorical than real. Still, it has a noteworthy emphasis on ending the conservatorship, promulgating new standards, and enhancing inclusion not just at the GSEs and within FHFA, but also in credit access.

- **CRA29**: Emphasizing its new focus on racial equity ahead of several Congressional hearings this week, the Federal Reserve Board today unanimously approved a long-awaited ANPR revising its CRA regulations.

- **GSE-092120**: Late last week, the Federal Reserve Bank of New York announced that the Fed bought almost $56 billion in agency MBS over the past two weeks.

- **GSE-091720**: 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.

- **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.

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- **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.

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