# FedFin Daily Briefing

**Thursday, October 29, 2020**

## OCC Continues National-Bank Charter Redesign

The OCC late yesterday provided preliminary approval to the fintech company SoFi to charter a national bank. This continues a flurry of activity at the OCC designed to enshrine Acting Comptroller Brooks' new national-banking vision. If Tuesday's election goes against Donald Trump, then we think this flurry will turn into a flood not just from the OCC, but also from the FDIC not only of controversial new rules, but also as companies seeking innovative charters press for action that cannot be easily reversed if Biden officials have differing views.

According to the OCC's letter to SoFi, the new national bank will seek Fed membership and FDIC insurance, giving it payment-system access if these agencies concur. If the Fed or FDIC do not agree, then the OCC reserves the right to modify its approval. Although one comment opposed the new charter on grounds that the CRA plans accompanying it lacked detail, the OCC notes that it does not expect applicants to have fully-developed plans when seeking preliminary approval; instead, this is due for final approval. The bank will initially be capitalized with $550 million, at least thirty percent in cash and the rest in "high-quality" loans from the parent judged by OCC-approved valuations. These loans do not serve as capital for purposes of complying with bank capital requirements, presumably serving now to give the bank a platform from which to raise additional capital from SoFi or third-party investors. The OCC's letter provides no insight into how this will be addressed for final approval. Although it is possible that SoFi's activities could allow it to become a BHC, the OCC's approval suggests only member-bank status is sought, absolving the parent company of all the capital, activity, and governance rules applicable to BHCs. Interestingly, the OCC approved a slate of officers that includes someone noted both as an organizer and chief risk officer, a dual role that may not fully accord with the concept of independent risk management.

## Agencies Advance Guidance Restraints

Addressing longstanding industry grievances and following FDIC approval last week, the federal banking agencies, NCUA, and CFPB today jointly issued a proposal codifying their 2018 statement on the role of supervisory guidance. The NPR would make clear that supervisory guidance is not binding law and thus cannot be the basis for an enforcement action. Supervisory guidance is instead limited to providing general expectations, priorities, and proper practice. Comment is due sixty days after *Federal Register* publication.

## Support for Climate Disclosures Nearly Doubled in Last Year

An industry-led group established by the FSB, the Task Force on Climate-related Financial Disclosures (TCFD), today released its 2020 green-disclosure status report. Endorsed by the FSB, it finds that organizational support for these disclosures has grown by more than 85 percent since 2019, with firms with market capitalization of $12.6 trillion now making or planning to make TCFD-approved disclosures. Nearly sixty percent of the world's 100 largest public companies also now support the TCFD and/or report in line with its recommendations. The report also notes that investor demand for climate-related disclosures has increased, with demand now from more than 500 investors managing over $47 trillion in assets. Despite this progress, the report warns that climate-change financial impact disclosures remain scarce. As we noted in our new brief on challenges to financial-system climate-change rules, the lack of standardized disclosures and the measurements that must lie behind them are among the more significant speed-bumps to stress testing, penalty capital charges, and several other remedies gaining political support.

# New York Sets First U.S. Climate-Risk Supervisory Standards

As we noted in our new issue brief on green financial regulation, federal officials are increasingly interested in standards reducing climate risk but remain reluctant to take affirmative action despite injunctions from the New York Fed (see Client Report **GREEN2**). This does not constrain the states, with the New York State Department of Financial Services (NYSDFS) today laying out climate-risk mitigation expectations for the companies over which this very significant state agency has authority.

The NYSDFS analysis confirms our assessment that climate risk is correlated in nonlinear ways that make it structurally different from traditional financial risks. As a result, the Department endorses work by global regulators, stating that the agency expects companies to integrate financial risk due to climate change into their governance framework (e.g., via a designated board member) and to improve financial disclosures. As noted earlier today, the FSB-endorsed Task Force on Climate-related Financial Disclosures today issued a status report showing considerable increases in green disclosures.

The NYSDFS also tells non-depositories to conduct physical and transitional risk assessments, noting not only the importance of doing so, but also the challenges this raises for entities without established risk-management and government capacity. As a result, NYSDFS is building out a set of supervisory standards. The NYSDFS statement also addresses issues such as the energy costs of crypto-currency mining, making it the first financial-regulatory statement to do so in the supervisory context (the BIS in the past has doubted crypto viability based on energy consumption).

# CFPB Limits Confidential-Information Release

Completing action begun in 2016, the CFPB today finalized a rule governing how it will treat confidential information as required by Dodd-Frank. Now, the Bureau may disclose material derived from confidential information but will not identify any person involved without first obtaining consent to release identifying information. The final rule also revises several definitions to increase clarity informing consumers and businesses when confidential information may be disclosed but does not expand the number of agencies that could automatically obtain confidential information as proposed.

## 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-102820:** This analysis builds on our in-depth assessment of the new inter-agency net stable funding ratio (NSFR) rule to highlight strategic implications for U.S. housing finance.

**Federal Financial Analytics, Inc.**
**2101 LStreet, N.W. – Suite 300, Washington, D.C. 20037**
**Phone (202) 589-0880**
**E-mail:** info@fedfin.com www.fedfin.com

- **LIQUIDITY32:** After expectations that the U.S. might well not adhere to the Basel Committee's NSFR standards, the banking agencies have finalized their 2016 proposal, albeit in significantly revised form.

- **GSE-102120:** As we noted late last week, African-Americans and Hispanics have a heck of a time enjoying the benefit of low mortgage rates despite like-kind default risk to white borrowers.

- **PAYMENT21**: The FSB and many other global bodies have finalized a vision of cross-border payments with far-reaching implications not only for payments, but also for personal privacy, regulatory arbitrage, the role of nonbanks, cross-border resolution, monetary-policy transmission, and financial stability.

- **GSE-101520**: Although direct mortgage discrimination based on race and ethnicity has abated in recent years, a new study from the Federal Reserve Bank of Boston shows a striking difference in prepayment rates due to refinancing-speed differences directly attributable to race and ethnicity after controlling for an array of well-accepted underwriting risks.
- **CRA30**: Following opposition to the OCC's CRA rewrite, the FRB has proposed an initial construct that takes some elements of the OCC's approach and adds further and in some cases different provisions to craft what the Fed hopes will become an inter-agency CRA construct in 2021.

- **BIGTECH**: Last week, the House Judiciary Antitrust Subcommittee released a lengthy, high-impact Democratic report calling for structural changes to the nation's biggest tech-platform companies.

- **GSE-100820:** As will soon be detailed in an our in-depth report, the Federal Reserve's long-awaited CRA proposal is a comprehensive rewrite that, while preliminary, would dramatically change large bank community-focused lending and investing.

- **CORPGOV31**: In this report, we analyze the strategic implications of enforcement actions against Citibank issued late yesterday by the Fed and OCC.

- **CAPITAL226**: In conjunction with numerous changes to its supervisory stress test (CCAR) for the largest U.S. banking organizations in response to COVID, the Federal Reserve is seeking comment on structural changes to current capital-planning requirements.

- **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.

- **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.

**Federal Financial Analytics, Inc.**
**2101 LStreet, N.W. – Suite 300, Washington, D.C. 20037**
**Phone (202) 589-0880**
**E-mail:** info@fedfin.com www.fedfin.com