



FedFin Daily Briefing

Friday, October 30, 2020

True-Lender Rule Effective Before Year End

The *Federal Register* [today](#) includes the OCC's final true-lender rule, which generally preempts state usury ceilings and state consumer-protection standards. [As noted](#), the OCC also made a significant concession, expanding bank compliance obligations for third parties to whom they provide lending or funding services; we will shortly provide clients with an in-depth analysis of the rule, which is effective on December 29. [As also noted](#), Senate Banking Ranking Member Brown (D-OH) plans to challenge the rule and, if democrats gain Senate and White House control next week, could succeed in doing so.

Treasury, Fed Sweeten Main Street Lending Program

Conceding to Congressional pressure from both sides of the aisle, Treasury has authorized the Fed to make changes to the Main Street Lending Program (MSLP) both agencies [announced](#) today. The failure, at least so far, of stimulus talks combined with growing Fed worries about the economy in the absence of new fiscal supports doubtless also contributed to changes they had long feared would increase its losses past points permissible under its 13(3) authority ([see Client Report COVID15](#)). The changes announced today lower the minimum loan amount to \$100,000, waiving the transaction fee on loans below \$250,000. The two percent origination fee now also varies by loan amount. However, the MSLP retains the five percent risk-retention requirement. It remains to be seen if these changes, along with more generous treatment of PPP loans towards MSLP principal amounts, suffice to increase interest in the program, which Mr. Powell has previously said does not attract borrowers needing less than \$1 million.

Progressive Dems Renew Public-Bank Push, Turning Now to Fed Funding

Continuing progressive Democrats' public-bank push, legislation from Reps. Tlaib (D-MI) and Ocasio-Cortez (D-NY) introduced [today](#) would significantly reduce barriers to opening and operating a public bank. The bill also continues Democratic efforts to use the Fed as a window for financing social-welfare projects without resort to new revenue. While not directly creating new public banks, the bill would establish a Public Bank Grant program administered by Treasury and the FRB, with the Fed authorized to charter or recognize public banks and to grant Fed membership along with access to a new deposit insurance scheme. Fed liquidity and credit facilities would provide direct federal support for public banks and even their communities. The legislation also includes provisions to ensure that public banks provide digital dollar, Fed Account, and postal banking services; investments in fossil fuel projects would be prohibited.

Tlaib Demands End to Fed Fossil-Fuel Support

Continuing her critique of the Fed and Treasury's pandemic response (see [Client Report COVID15](#)), Rep. Tlaib (D-MI) [late yesterday](#) sent a letter to FRB Chair Powell contending that the Fed has not only failed to help cities and municipalities, but instead "proped up" corporate polluters. Rep. Tlaib also argues that the Fed should make its own actions consistent with findings in its 2016 proposal on physical-commodity and merchant-banking restrictions (see [FSM Report COMTRADE8](#)) that monetary damages from environmental catastrophes involving physical commodities may amount to tens of billions of dollars. Fed support for fossil-fuel activities is, she says, also inherently contradictory to its responsibility to promote financial stability, noting that a recent House Select Subcommittee on the Coronavirus Crisis [report](#) found that the Fed now owns millions of dollars' worth of fossil-fuel company bonds via the SMCCF. Chair Powell is asked a series of questions concerning SMCCF purchases in relation to bond assessment, market neutrality, and the Fed's consideration of climate risk when purchasing bonds. A "timely" response is requested.

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

- [**FAIRLEND9**](#): Congressional Democrats have introduced legislation that formally expands civil-rights obligations to financial institutions.
- [**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.
- [**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 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.