FedFin Weekly Alert

Monday, November 16, 2020

❑ COMING SHORTLY TO A FINANCIAL INSTITUTION NEAR YOU

In the vacuum caused by the contentious White House transition and Senate-control stand-off, regulators will set the near-term agenda and, given the inevitability of a Biden White House, outgoing officials will do what they can while they can to stamp an irrevocable legacy on their agencies and the companies they govern. At the same time, the raging pandemic makes still more dire many of the risks detailed in the Fed's latest financial-stability report. As our analysis (see Client Report **SYSTEMIC89**) noted, the Fed thinks that disaster in March was averted only by all of the facilities it and, later, Treasury, rushed into the yawning breach. Many thus found it reassuring that FRB Vice Chairman Quarles assured the House Financial Services Committee (see Client Report **RESCUE78**) that the Board has the authority to use its facilities after their scheduled year-end expiration date, reading the CARES Act (see FSM Report **RESCUE72**) to allow it also to use the hundreds of billions of funds so far left untouched. It was just the low use levels of these facilities combined with market recovery that led Senator Toomey (R-PA) to demand earlier in the week (see Client Report **RESCUE77**) that the facilities be allowed to die; a bipartisan coalition on the CARES Act Congressional Oversight Commission has also targeted the Secondary Market Corporate Credit Facility for termination no matter what happens to the municipal-bond, PPP, and other backstops. Much else of note occurred at these two high-profile hearings, and our reports thus also highlight:

- Regulatory Relief: House and Senate Republicans continue to push for additional pandemic regulatory relief, now targeting discretionary asset thresholds that many smaller banks are crossing due to temporary asset inflows. Regulators noted they are considering waiving asset ceilings, targeting it to thresholds below $10 billion. Although they made scant progress with Mr. Quarles, Republicans also demanded GSIB surcharge (see FSM Report **GSIB7**) relief.

- CRA: Although partisan differences regarding the OCC's final rule (see Client Report **CRA28**) are nothing new, Acting Comptroller Books broke some news last week with his announcement that the OCC will shortly issue an NPR laying out the benchmarks on which CRA grades will be based.

- TDRs: HFSC's hearing showed bipartisan interest in extending TDR relief into next year. However, Vice Chair Quarles is hesitant to do so due to his belief that regular order should be restored as quickly as possible. He, FDIC Chair McWilliams, and Acting Comptroller Brooks all stand ready to implement additional TDR relief if enacted by Congress, and Mr. Books noted several actions the OCC could also take in lieu of legislation.

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- Climate Risk: House and Senate Democrats continue to argue that climate risk must be integrated into bank risk-management framework, now getting Vice Chairman Quarles to agree following the Fed's recent financial-stability report in which climate risk is identified as a financial risk. However, Mr. Quarles did not endorse climate risk stress testing, saying only that "modellable" risks could be stress tested. As noted in our most recent issues brief, climate-risk modeling is far from fully developed.

Headlines From the Past Week's Daily Briefings

November 9

- **FSB Seeks Views on Outsourcing, Third-Party Risk** - An FSB discussion paper released for consultation lays out regulatory and supervisory issues regarding outsourcing and third-party relationships without proposing specific principles or standards to remedy them.
- **FRB-Cleveland Fed President Calls for Sweeping Fintech, BigTech Reg Rewrite** - Loretta Mester, president of the Federal Reserve Bank of Cleveland, laid out steps she says must be taken to ensure that financial digitalization leads to responsible, sustainable financial inclusion, calling for a wholesale review of the U.S. and global retail finance framework.
- **OCC Takes New, Cautious Tack on Strategic, Credit, Payment Risk** - The OCC's semiannual risk perspective is a pessimistic assessment of growing risk due to the pandemic as well as a guide to future OCC supervisory action.

November 10

- **Stiroh Sets Cautious Basel Climate-Course** - Continuing his leadership on climate-risk supervisory policy (see Client Report **GREEN2**), Kevin Stiroh laid out a cautious course for future global standards even as he emphasized the need for careful management of climate change's microprudential challenges.

November 11

- **Nothing of note**

November 12

- **House Democratic Coalition Lambasts OCC's Crypto, Payment Construct** - Joined by the HFSC fintech task force's chairman, Rep. Stephen Lynch (D-MA), Rep. Rashida Tlaib (D-MI) and a group of progressive and more moderate Members sent Acting Comptroller Brooks a letter sharply criticizing his plans for special-purpose payment charters.
- **Oversight Commission Again Demands SMCCF Halt** - Following the Fed's announcement that the Secondary Market Corporate Credit Facility (SMCCF)

continues each day to purchase about $20 million of corporate bonds, the CARES Act Congressional Oversight Commission on bipartisan basis reiterated its position that SMCCF purchases should be discontinued.
- **FSB Determines GSIB Risk Reduction** - Although GSIBs will be cheered by the FSB's decision generally to lower their capital surcharges, the skepticism with which this was met suggests that those in the U.S. and elsewhere demanding tough GSIB sanctions will only redouble their efforts for alternative strategies to rein in the biggest banks.

November 13

- **FRB-Atlanta: Digital Payments, Not Bank Accounts, Key to Financial Inclusion** - A new paper from the president of the Federal Reserve Bank of Atlanta and a team of researchers counters views about the benefits of bank accounts to financial inclusion, arguing that un- and under-banked consumers would be better served by new digital payment vehicles rather than traditional bank accounts.
- **FSB Announces New Plans for Bond-Market, Central-Bank Facility, Procyclicality, Buffer-Use Analysis; NBFI/MMF Review Under Way** - In this alert, we assess the forward-looking conclusions in the annual Financial Stability Board report delivered to the G20.

This Week

Tuesday, November 17

Senate Committee on Banking, Housing and Urban Affairs hearing entitled "Oversight of the Securities and Exchange Commission" [10:00 AM] Witnesses: Jay Clayton, Chairman, SEC.

Thursday, November 19

HFSC Subcommittee on Housing, Community Development and Insurance hearing entitled, "Insuring against a Pandemic: Challenges and Solutions for Policyholders and Insurers." [10:00 AM via WebEx] Witnesses: Not yet available

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

- **RESCUE78**: Today's HFSC hearing with federal regulators addressed some of the same ground as the Senate's session earlier this week (see Client Report

RESCUE77), although Acting Comptroller Brooks did not come in for the shellacking on his innovative charters delivered by Senate Democrats

- **RESCUE77:** At its first hearing following last week's election, Senate Banking today heard testimony from the federal prudential regulators which largely covered ongoing efforts to combat the COVID pandemic's impacts on the financial system.
- **GSE-111020**: Following our in-depth analysis of the Fed's latest financial-stability report, we here focus on mortgage-specific considerations, with the most significant strategic one the Fed's conclusion that nonbank mortgage servicers and MREITs are far from out of COVID's Black Forest.
- **SYSTEMIC89**: In this report, we go in depth into the forward-looking financial-policy implications of the Fed's latest financial-stability report.
- **GSE-110920**: Acting at last on one of its 2019 commitments, FHFA has proposed a new construct sharply curtailing the GSEs' ability to launch new products.
- **ESG2:** The Trump Administration's Labor Department has finalized controversial rules it says only clarify those previously in place under the Employee Retirement Income Security Act (ERISA) defining a fiduciary's investment duties.
- **DATA**: In 2010, Congress told the CFPB to determine how consumer-finance providers are to give consumers access to their data.
- **GSE-110220**: Here, we follow our in-depth analysis of the OCC's new true-lender rule with an assessment of the standards' mortgage-market consequences.
- **PREEMPT35**: In the wake of its final rule on the "valid-when-made" doctrine, the OCC has moved quickly to finalize its controversial proposal defining when a national bank or federal savings association (FSA) is a "true lender" for purposes of state usury ceilings and consumer protection.
- **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, 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.

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