



FedFin Daily Briefing

Thursday, November 5, 2020

Justice Takes Tough Stand on VISA Vertical Integration

Calling VISA a “monopolist,” the Department of Justice [today challenged](#) the firm’s high-profile acquisition of Plaid, contending that VISA is acquiring it solely to protect its own payment business at great potential cost to merchants and consumers. DoJ also asserts that VISA’s acquisition also aims to protect its bank payment-related fees from Plaid’s alternative bank-pay product, a competitive risk Justice says was spotted during VISA’s due diligence that accelerated the firm’s acquisition. VISA strongly disputes Justice’s assertions, which now head into court. The suit comes as the Department is reconsidering broader plans to rewrite its antitrust criteria for financial-sector mergers ([see Client Report MERGERS](#)). As we noted, going beyond traditional market-measurement criteria -- as done in this case – will challenge vertical integrations that until now have largely proceeded without debate across the bigtech and fintech sectors.

Powell Takes Guarded Stand on Fed Climate-Risk Rules

In addition to taking skeptical questions about continuing QE today, FRB Chairman Powell was asked about why the Fed has so far not emphasized climate-change risk mitigation. In response, Mr. Powell stressed that the Fed takes all material risks very seriously and includes climate risk among those banks must address. However, as detailed in [FedFin’s recent brief](#), he also said that both the “science” and “art” of measuring and defining climate risk must advance before specific standards can be advanced for financial institutions. He again demurred on Fed membership in the Network for Greening the Financial System, saying only that the Fed is an “active participant.”

Treasury, BIS Reiterate BigTech-Finance Risk, Opportunity

The FSB today held a virtual workshop on the role of BigTech in emerging markets during which broader BigTech issues also came into focus ([see FSM Report PAYMENT21](#)). The FSB’s recent [report](#) on BigTech and obstacles for stimulating innovation while accounting for risk were also highlighted. A U.S. Treasury official, Elizabeth Jacobs, addressed the need for regulators to “future-proof” policy to afford supervisory leeway and to foster innovation and competition. She underscored the importance of common standards between international regulators, praising IOSCO’s work in this arena. BIS Senior Economist Jon Foster called for greater dialogue between regulators and private entities to support innovation. Like Ms. Jacobs, he stressed the importance of maintaining a competitive fintech marketplace to drive innovation.

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

- **[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 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.