



# *FedFin Daily Briefing*

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Tuesday, December 15, 2020

## Fed Goes Green

Perhaps most interesting about today's Fed announcement joining the Network for Greening the Financial System (NGFS) is that it comes just days after dozens of House Republicans told it [not to do so](#). Membership obliges the U.S. central bank to do nothing other than formally acknowledge the Network's direct-action goals instead of continuing to demur about the ability of central banks to address climate risk. However, this action implicitly recognizes the national-policy shift due to the Biden Administration, signaling greater willingness going forward by the Fed to work on the technical and supervisory issues remaining for effective [climate-risk stress testing](#) and more controversial proposals such as "brown-penalty" capital requirements ([see Client Report GREEN](#)). We do not view the Fed's decision also as an indirect rebuttal of the OCC's "fair access" proposal ([see FSM Report ESG3](#)) because the central bank has long been opposed to moves of this kind.

## A Day in the Life of the Conservatorships

In today's *Wall Street Journal*, Secretary Mnuchin [disavowed comments](#) just last week in which he suggested that a consent agreement with forward-looking capital goals might suffice to free the GSEs from conservatorship. However, he has yet to make clear if his decision against full release from conservatorship precludes a consent agreement that allows the GSEs to retain more capital, limits products and services as proposed in the 2019 Administration plan ([see Client Report GSE143](#)), and/or addresses lower-profile issues such as full privatization of the shared securitization affiliate. What the Administration actually does before inauguration clearly remains under construction, but leaving the GSEs mostly as is will, we think make the odds of [systemic designation under a Yellen FSOC](#) still more likely. Given Fed support for [FHFA's capital rule](#), this key Calabria standard will not be significantly affected by designation, but it could begin the transformation of the GSEs into utilities without the need for Congressional action in concert with implementation of resolution, stress-testing, and other standards deemed long overdue by the Federal Reserve. .

## FDIC Empowers Brokered Deposit-Taking, Relaxes ILC-Parent Restrictions

[As anticipated](#), the FDIC today approved two controversial final rules to which Director Gruenberg dissented. Taken together with recent OCC actions such as new charters ([see Client Report CHARTER28](#)) and expanded federal preemption ([see FSM Report PREEMPT35](#)), the FDIC's new standards for ILC parents and brokered deposits significantly empower non-traditional companies and funding structures. The FDIC also unanimously approved an inter-agency [NPR on computer-security incident notification](#) updating 2005 guidance to require banking organizations to notify their primary regulator of any material breach.

The [first rule](#) finalizes in combined form two NPRs ([see FSM Report DEPOSITINSURANCE109](#)) on brokered deposits and the interest rates applicable to them, substantially reducing the types of deposits considered brokered by, for example, expanding the primary-purpose exclusion to cover thirteen

relationships, several of which will ease the ability of bank-fintech partnerships. Countering Acting Comptroller Brooks' strong support, Director Gruenberg argued that the rule's "general objective" is to narrow the scope of the brokered-deposits rule. He also lambasted the rule on procedural grounds, noting changes were made to it as late as yesterday and the Board therefore was not given adequate opportunity to evaluate it. This line of attack may lay the groundwork for an APA challenge.

The [second rule](#) finalizes the FDIC's NPR on ILC-parent support obligations ([see FSM Report ILC14](#)) with two notable changes highlighted by Director Gruenberg in his dissent. The final rule doubles the proposed limit on a parent company's allowed share of representation on the industrial bank's board, allowing possible control, and requires a subsidiary industrial bank to obtain FDIC approval to add or replace a board member or senior executive only when the officer associated with an affiliate within the last three years. The final rule also requires covered companies to submit an annual report regarding protection of consumer information.

FedFin will shortly provide clients with in-depth analyses of these rules.

## CFPB Continues Small Business Lending Data Slow Walk

The CFPB [today](#) released a report on its efforts to implement Dodd-Frank's small business lending data collection requirement ([see FSM Report CONSUMER14](#)), highlighting Bureau work to date laying the groundwork for the Biden Administration finally to bring forth contentious rules creating the equivalent of HMDA for small-business lending. Still, the report only recommends exploration of alternatives and seeking further comment on a wide array of topics such as the eventual rulemaking's scope, definitions, product coverage, data points, and timing. However, it also recommends development of sample disclosure language on the collection of race, sex, and ethnicity information.

### Recent Files Available for Downloading

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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](http://www.fedfin.com) or clients may obtain the reports/analyses by e-mailing [requests@fedfin.com](mailto: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](http://www.fedfin.com/index.php?option=com_content&view=article&id=18&Itemid=18)

- [RECOURSE6](#): In this report, we assess the regulatory consequences of one of the ironies of March's market turmoil: among the reasons it was not worse is because some large banks stepped in and backed customers or investors despite the lack of any legal obligation to do so.
- [CHARTER28](#): Continuing Acting Comptroller Brooks' policy of considering [precedent-breaking applications](#) and [charters](#), the agency has received a controversial [application](#) from Figure to establish a national bank that, by virtue of this charter, would also be a Fed member.
- [GSE-120720](#): The last Trump FSOC [annual report](#) reiterates 2019's [findings](#): nonbank originators and servicers are weak and interconnected, thus posing systemic risk.
- [DIGITAL6](#): Even though 2020 was of course preoccupied by the pandemic, there was no scarcity of the oft-repeated nostrum that law and rule must define the future of digital finance.

- **CHARTER27:** In conjunction with a wide-open request for views on ways to increase the innovativeness of national banks and federal savings associations (FSAs), the OCC has finalized a significant rewrite of their more traditional powers and activities.
- **GSE-120220:** Today's House Financial Services session with Mnuchin and Powell shed just a bit more light – or provided still more uncertainty – on the critical question of whether Treasury will work with FHFA to end the conservatorships before the Biden Administration surely keeps them for a long, long time.
- **GSE-120120A:** At today's Senate Banking hearing on the CARES-funding fracas, Secretary Mnuchin told Sen. Rounds (R-SD) that the GSEs should be quickly brought out of conservatorship but that they will not be let out without sufficient capital/
- **GSE-120120:** Given the high confirmation odds for Janet Yellen as the nation's next Treasury Secretary, we here assess her impact on the future of U.S. housing finance.
- **ESG3:** Following through on one of his pledges, Acting Comptroller Brooks' agency has issued a controversial proposal to prevent large banks and perhaps all federally-chartered ones from deciding whether or not to grant credit on grounds other than clear, quantitative indicators of ability to repay.
- **GSE-112420:** Building on our analysis of the overall final FHFA [capital rule](#), we turn here to an assessment of the rule's strategic impact.
- **GREEN5:** In its latest report on climate risk, the Financial Stability Board reiterates the complexity of measuring financial-system climate risk, continuing its work to enhance the ability of regulators and financial institutions to do so due to the magnitude both physical and transition risks are likely to pose.
- **GSE-112320:** In this report, we build on our initial summary of FHFA's [final capital construct](#) to assess one of the most important issues on which FHFA made at least some concessions.
- **GSE-111920:** On Monday, [we reiterated our call](#) that FHFA would move the capital rule ASAP and then end the conservatorship as quickly as possible under terms and conditions designed to make it challenging for the Biden Administration to unravel a fait accompli.
- **GSE-111820:** In its [2020 systemic-risk assessment](#), the Office of Financial Research takes unusual issue with GSE CRT transactions.
- **SYSTEMIC90:** The Office of Financial Research's latest [systemic-risk assessment](#) reiterates much of the market analysis in the FRB's recent report ([see Client Report SYSTEMIC89](#)), the FSB's analysis ([see Client Report NBF1](#)), and the OCC's [risk matrix](#).
- **NBF1:** As promised again just [last week](#), the Financial Stability Board [today released](#) a "holistic" plan for dealing with NBFIs along with an ambitious agenda for global standards as soon as next year.
- **GSE-111620:** Responding to your requests, this report summarizes and expands on the post-election outlook for U.S. housing policy we've also discussed with many of you since November 3.
- **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.