



FedFin Daily Briefing

Thursday, January 21, 2021

Day One Biden Order Recasts U.S. Rulemaking Process

Going beyond the usual executive order [freezing open rulemakings](#) from the prior Administration, President Biden [yesterday](#) issued an Executive Order recasting the way the U.S. makes its rules. While not directly applying to the banking agencies, we expect all of them to adhere to the new standards – once finalized – to greater or lesser degree depending on the positions of agency heads. Most notable in the new approach – which will be released for public comment – is the departure from the measure of economic impact (EO 12866) dating back to the Clinton Administration. This depends solely on a simple number (\$100 million) of cost impact; now, rules would need to consider racial equity, “environmental stewardship,” “human dignity,” and other social-welfare and public-health considerations. All cost-benefit analyses must also now take distributional impact into full account. The regulatory-review process is also to consider how best to undertake inter-agency actions and reconsider outstanding guidance, with the EO not making clear if this OMB assessment will seek to speed up inter-agency actions, limit them, and/or restore the more binding impact of outstanding guidance now removed via a series of rulemakings [shortly before President Trump left office](#).

FSB Confirms COVID, NBFI, CCP and Climate-Risk Action Priorities

The Financial Stability Board [today released](#) its delayed 2021 work plan, reiterating the [priorities](#) laid out late last year. These continue to include reporting to the G20 on COVID’s financial-system impact; NBFI resilience (with a focus on MMF), core funding markets and bond-market liquidity ([see Client Report NBFI](#)); CCP resilience with a focus on ex ante funding; stablecoin standards based on the FSB’s roadmap ([see FSM Report CRYPTO14](#)), followed by specific G20 recommendations; and climate-change and sustainable finance, working on emerging systemic risks, data and disclosure along with a report due in July of this year. Work continues on issues such as benchmark rates, digital innovation, and cyber resilience along with market fragmentation and pressing nations to complete the post-2008 rulebook.

Yellen Takes Tough Stand on FSOC Purview, Agenda

In her 114-page [letter](#) to Senate Finance ahead of a surely-successful confirmation vote tomorrow, Janet Yellen addressed upcoming financial-regulatory questions along with dozens of tax and fiscal-policy matters. Answering a question about how she defines financial stability and systemic risk, Ms. Yellen was emphatic about the need to contain large bank and nonbanks and noted the need for effective FMU regulation, SIFI resolution planning, a hands-on FSOC role resolving inter-agency disputes, and continuation of the Office of Financial Research. Reiterating her position at the [confirmation hearing](#), Ms. Yellen emphasized that climate risk is not only an existential threat, but also a systemic risk. That said, she emphasized the need for more data, not near-term climate-risk stress testing. Unsurprisingly, Ms. Yellen defended Fed independence and did not advocate now for expanded 13(3) emergency windows.

Brown, Reed Demand End to GSE Loan Sales without Homeowner Protection

Senate Banking Chairman Brown (D-OH) and Sen. Reed (D-RI) have [requested](#) that FHFA clarify its policy regarding loans sales by the GSEs during the pandemic, demanding that the agency make full use of its authorities to ensure borrowers are protected by the foreclosure moratorium and forbearance protections. The senators allege that FHFA failed to fully answer a letter on this question last year because FHFA's response did not detail the impact of loan sales on homeowners. Indeed, the senators state that it failed to explain how FHFA and the GSEs decided to "take away" Congressionally-granted forbearance and cease foreclosure protection. FHFA is also told to consider requiring that loan purchasers maintain the minimum GSE-guaranteed protections and mandate prospective and retroactive protections. Signaling Sen. Brown is more than serious about the [focus on housing policy](#) he said will characterize his chairmanship, a response is requested by January 29.

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 info@fedfin.com giving the requested item name, firm, and e-mail address. To learn more about *GSE Activity Reports*, click [here](#).

- **INVESTOR14**: In this report, we expand on prior forecasts to assess broad financial-regulatory and structure issues under the SEC's jurisdiction under what seems likely: a Chairman Gensler. His will be an activist SEC, one sure to throw broker-dealers, asset managers, and investment funds from the relative comfort of the last four years.
- **GSE-012121**: As forecast following a landmark CFTC-committee [report](#) and the Fed's financial-stability assessment, [FHFA has now](#) turned to the climate risk that worries them the most: residential real estate.
- **GSE-011521**: Last night, Treasury and FHFA [announced](#) an agreement on the GSEs' conservatorship unsatisfactory to all concerned and highly objectionable to many of those on the Hill with the power to change it.
- **GSE-011321**: Setting Senate Banking's [agenda yesterday](#), incoming Chairman Brown highlighted refi inequality as a top committee priority.
- **CRYPTO17**: This interpretive letter (IL) follows an OCC advance notice of proposed rulemaking that suggested a notice-and-comment process before the agency made substantive changes to the digital-currency powers of federally-chartered banks.
- **AML133**: In a cliff-hanger before the end of the 116th Congress, the National Defense Authorization Act was enacted into law with an array of provisions significantly revising U.S. anti-money laundering (AML) and countering the financing of terrorism (CFT) requirements.
- **ELECTION25**: It will take considerable time for Congress to absorb the meaning of yesterday's insurrection not only in institutional terms, but also and more immediately with regard to each

Member's thinking about his or her own policy and political agenda.

- **[TMARKET](#)**: As we noted earlier ([see Client Report REFORM200](#)), we do not expect U.S. regulators to extend SLR relief ([see FSM Report LEVERAGE23](#)) after its scheduled March expiration.
- **[GSE-010421](#)**: It's not exactly news to suggest that the Biden Administration will take a more demanding view of the GSEs' affordable-housing obligations than the Trump Administration.
- **[DEPOSITINSURANCE111](#)**: Easing restrictions from a proposal already intended to facilitate additional funding from products then considered brokered deposits, the FDIC has finalized new rules creating a new brokered-deposit framework in which funding relationships long considered brokered deposits instead may be gathered without impediments even by under-capitalized insured depository institutions (IDIs).
- **[GSE-122820](#)**: As we [noted](#) last week, FHFA is barreling through the systemic rulebook, finalizing [capital rules](#), proposing [liquidity standards](#), and, now, laying out [living-will requirements](#) to ensure orderly GSE resolution under even acute stress
- **[CRYPTO16](#)**: Late Wednesday, the President's Working Group on Financial Markets (PWG) issued yet another unprecedented U.S. policy statement, following one on MMF reform just the day before with a [statement](#) from Treasury, the FRB, SEC, and CFTC on U.S. stablecoin policy.
- **[MMF16](#)**: Late yesterday, the President's Working Group on Financial Markets (PWG) issued an unusual [report](#) signaling agreement by Treasury and the FRB, SEC, and CFTC on the urgent need for changes in the MMF sector to prevent systemic "dash-for-cash" events such as the most recent March crisis.
- **[GSE-122320](#)**: It's beginning to look a lot like a major policy theme: research continues to show that GSE mortgages cost Black and Hispanic borrowers considerably more than non-Hispanic whites, especially over the course of a loan, not just at origination.
- **[FEDERALRESERVE59](#)**: It's hard to envision a Federal Reserve still more central to every aspect of U.S. macroeconomic, financial, and fiscal policy, but that's what FedFin forecasts for 2021.
- **[ILC15](#)**: Setting the stage for new charters and legislative battles in 2021, the FDIC has finalized a controversial proposal addressing source-of-support and certain other obligations for the parent companies of some industrial banks and industrial loan companies (ILCs).
- **[GSE122120](#)**: As previously [noted](#), FHFA late last week issued a long-promised proposal implementing LCR- and NSFR-like – but not light – rules for Fannie Mae and Freddie Mac.
- **[CONSUMER36](#)**: On Monday, the Biden transition released a readout of a meeting between Treasury nominees Janet Yellen and Wally Adeyemo with various racial-equity associations, reinforcing the importance this issue will have in crafting financial regulation in the Biden Administration.
- **[GSE121720](#)**: FHFA's controversial [capital rule](#) is in today's *Federal Register*, setting an effective date of February 16.