



FedFin Daily Briefing

Monday, February 8, 2021

OCC Continues Crypto-Chartering

Although Brian Brooks is gone, his crypto legacy continues, with the [OCC on Friday](#) approving the second conditional charter for crypto-custody services. This builds on Mr. Brooks' interpretation last year ([see FSM Report CRYPTO15](#)) authorizing this service and, as with prior orders, leaves critical decision – what constitutes reserves and how sterile they must be – up to the bank. The agency thus remains at odds with the President's Working Group report on stablecoins which, while not directly addressing crypto-custody, emphasized the critical importance of sterile, fiat-currency, high-quality reserves ([see Client Report CRYPTO16](#)). As with its most recent [charter for Anchorage Digital Bank](#), this approval allows the conversion of a newly-formed state-chartered trust bank into a federal trust to be called Protego Trust Bank, NA. In fact, the state entity now converted into a national trust bank appears to have received only preliminary state approval, thus accelerating the formation of fledging entities with little to no business record or profitability into the elite ranks of federally-chartered banking organizations. The new trust bank would be wholly owned by a to-be-formed holding company, which in turn would be partially-owned by Science Investments, LLC. This approval thus also strikes still more innovative ground in the area of corporate governance and the intersection between banking and commerce. The trust bank, like others, would serve an array of crypto needs for institutional and high net-worth individuals, starting with existing cryptocurrencies and branching out into numerous wholesale tokens and other instruments. The application is not only conditional for the eighteen months it may take the company to meet the OCC's requirements, but also to become a member bank. No application is planned for FDIC insurance at this time.

HFSC Reconciliation Mark Up Set for Wednesday

HFSC is now [scheduled](#) to mark up reconciliation recommendations pursuant to the FY21 Budget Resolution (S.Con.Res.5) on Wednesday. The amendment in the nature of a substitute to the committee print does not contain any surprises; the amendment includes additional emergency rental assistance, homeowner assistance – including mortgage-payment assistance and housing counseling – and small-business assistance. Funds are also provided for increased Defense Production Act spending on PPE and other medical equipment, to aid the homeless, and for airline support. We will provide clients with an in-depth analysis of Wednesday's mark-up at which numerous amendments are expected on a wide range of borrower-protection, financial-policy and racial-equity initiatives.

Republicans Revive "Fair Access" Proposal

Sens. Rubio (R-FL), Cramer (R-ND), Cotton (R-AR), Blackburn (R-TN) and Cruz (R-TX) late last week [reintroduced](#) legislation ([see FSM Report ESG](#)) to deny FDIC insurance to any large bank refusing to do business with a federal contractor. While the legislation will not be enacted on a standalone basis given Democratic control, it demonstrates that Republicans will continue to push the "fair access" policy proposals former Acting Comptroller Brooks made a centerpiece of his time at the OCC. In a statement, Sen. Rubio targets big banks who have declined to lend to federal contractors operating immigration detention facilities even though President Biden recently signed an Executive Order banning new federal contracts with private-prison companies. We expect Republicans to continue to pressure banks regardless of political prospects or Biden Administration policy, likely resurrecting legislation ([see FSM Report SOCIALIMPACT](#)) targeting banks which do not lend to firearms companies and initiating measures aimed at banks eschewing fossil-fuel borrowers.

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](#).

- **REALESTATE24:** Continuing the OCC's recent actions to expand national-bank powers into unprecedented arenas, the OCC has now proposed major liberalization of the ways in which federally-chartered organizations may use commercial real estate owned as bank premises.
- **GSE-020121:** While it will take time for the swamped Biden Administration to craft U.S. housing policy, elements of it emerged last week during stimulus negotiations, the [President's statement](#), and [HUD-nominee Fudge's appearance](#) before Senate Banking.
- **CAPITAL227:** Although the FRB in its proposal indicated that this rulemaking would also begin consideration of the U.S. large-bank capital framework post-COVID, its final rule largely confines itself to aligning stress-test standards with the 2019 tailoring rule and stress capital buffer (SCB) for Category IV banking organizations.
- **GSE-012221:** The failure of yet another Administration and Congress to conquer the conservatorships does not augur well for constructive policy action anytime soon.
- **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.