



FedFin Weekly Alert

Monday, March 15, 2021

❑ SENATE COMMITTEE ON BANKING AND HOUSING (!)

As soon as he was officially handed the gavel of what was generally known as the Senate Banking Committee, Chairman Brown (D-OH) emphasized the second jurisdictional charge in the panel's actual name: housing. The third – urban affairs – is generally caught up in the first two, with Sen. Brown turning to all three issues in another of his agenda-setting hearings later this week. The witness line-up (see below) makes it more than clear that the chairman's racial-equity and economic-equality objectives will be aired and, at least among Democrats, advanced. There will be many calls for the policies voiced at last week's HFSC hearing ([see Client Report REFORM202](#)) for programs such as federal down-payment assistance and affordable-housing-supply boosts such as [those advocated](#) in the last Congress by Sen. Warren (D-MA). These were to be funded by a wealth tax, and that may well be the case again even though – then as now – Republicans will block Senate floor action. Our in-depth report will focus instead on debate that meaningfully advances agenda items that could be implemented either by Congress or, with a nudge from Democrats, by the new crop of Biden Administration officials and even hold-overs such as FHFA Director Calabria. We'll be listening for:

- **Housing Equity:** Much of the hearing will focus on facts and stats showing a wide range of obstacles to home ownership for minority and younger households. Republicans will focus on supply issues such as local zoning and environmental restrictions largely outside the committee's jurisdictions. Democrats will demand action on what they see as discriminatory barriers and structural financial-system flaws. Most of this will put every segment of the housing-finance sector – lenders, servicers, appraisers, GSEs, and government agencies – in a harsh light and no federal entity with authority in this arena will emerge unscathed. Under the Biden Administration, all of these agencies thus will promise stiff new standards to allay criticism and address growing affordable-housing, fairness, and even financial-stability concerns.
- **GSE Reform:** Sen. Brown is an avowed opponent of the [agreement struck this January](#) by then-Secretary Mnuchin and Mr. Calabria recasting the GSEs' conservatorship. Buoyed by recent reports asserting that the new version of the preferred stock purchase agreement (PSPA) and related directives adversely affects racial equity, Sen. Brown and other Democrats are sure to demand changes to current limits on higher-risk loans. Republicans will join in when it comes to cash-window constraints, which are particularly costly to small lenders. Secretary Yellen could certainly take heed of all of these demands; what Mr. Calabria is willing to do is yet to be known.

Federal Financial Analytics, Inc.
2101 L Street, N.W. – Suite 300, Washington, D.C. 20037
Phone (202) 589-0880

E-mail: info@fedfin.com www.fedfin.com

© 2021. Federal Financial Analytics, Inc. All rights reserved.

- **GSE Fees:** Regardless of the broader fate of the GSEs' conservatorship, pricing has raised high hackles among both the industry and, in selected cases, Democrats as well. Both housing financiers and Democrats agree that the GSEs' loan-level price adjustments (LLPAs) [cost low/mid-income and minority borrowers the most](#). House legislation was also discussed Thursday expressly to bar add-on [fees related to forbearance](#). All of these pricing policies are solely Mr. Calabria's domain, but Congress can force him to change and Democrats will certainly make it clear that they would very much like to do so.
- **FHA Premiums:** FHA premiums have also been dubbed a source of [housing discrimination](#). Democrats will demand a sharp, fast drop in FHA premiums, while many Republicans will oppose on fiscal-policy grounds. HUD Secretary Fudge was open to, but also non-committal about, lower premiums during [her confirmation hearing](#).
- **Forbearance and Eviction:** The new stimulus law includes extensive protections for some troubled homeowners and renters, but Democrats will demand still more and most of the witnesses will concur. Expect witnesses also to demand targeted mortgage products, new CFPB servicing rules, more enforcement, and far greater opportunities for loan modification.
- **CRA:** Housing equity is inextricably bound up with the Community Reinvestment Act, with witnesses demanding a new rule and senators on both sides of the aisle generally concurring that one is warranted. Details are of course to come, but as we noted before ([see Client Report CONSUMER36](#)) the OCC's CRA rule will crumple into a new inter-agency standard over the course of 2021.
- **Fair Lending:** HUD's controversial stand against disparate impact when it comes to algorithmic underwriting ([see FSM Report FAIRLEND8](#)) is already toast. As a result, witnesses will demand and Democrats will move on to a call also for far tougher housing-finance rules against discrimination on all current grounds as well as new ones dealing with sexual orientation and gender identity.

Headlines From the Past Week's Daily Briefings

March 8

- **Fed Closes Most Emergency Windows** - The Fed announced that it will continue its PPP liquidity facility until June 30, three months beyond its scheduled closing at the end of this month.
- **Fed Must Act Fast for CBDC, Against Stablecoin** - A letter released from Chairman Brown (D-OH) to Chairman Powell and Gov. Brainard strongly endorsing a U.S. digital dollar.
- **HFSC Dems Target Narrow Fixes for First Racial-Equity Hearing** - Ahead of its hearing racial-equity, HFSC released a sweeping memorandum detailing barriers to capital, credit, and financial services faced by minority borrowers and communities.

- **Atlanta FRB: Electronic Payments at an “Inflection Point”** - The Federal Reserve Bank of Atlanta released a paper showing that, at least up to 2019, most Americans preferred cash over electronic payments in P2P payments.

March 9

- **CFPB: ECOA Prohibits Sexual-Orientation, Gender-Identity Discrimination**
The CFPB issued an interpretive rule clarifying that the prohibition on sex discrimination in ECOA and its implementing regulation applies to discrimination based on sexual orientation and gender identity.

March 10

- **Waters Calls on FSOC to Block SLR Relief** - Joining Chairman Brown (D-OH) and Sen. Warren (D-MA), HFSC Chairwoman Waters (D-CA) urged federal banking regulators not to extend temporary SLR relief or lower other large-bank capital requirements.
- **HFSC Starts Work on Mortgage, Consumer Relief** - Ahead of its hearing on additional pandemic relief, HFSC has released several legislative proposals.

March 11

- **Ginnie Seeks to Open ESG Market to Agency MBS** - Trying to open a new market agency MBS, Ginnie Mae implemented an ESG stratification record in its Single-Family Supplemental File.
- **McHenry Positions Republicans for Credit-Reporting Debate** - Ahead of HFSC’s subcommittee hearing, Ranking Member McHenry (R-NC) introduced legislation (H.R. 1645) which would require that negative information emanating from predatory mortgage or student lending and financial abuse be removed from consumer reports.

March 12

- **Bureau Restores Tough Approach to Abusive Practices** - The CFPB rescinded its 2020 policy statement on abusive practices, ending the gentler approach to abusive-practice supervision and enforcement implemented under former Director Kraninger.

This Week

Tuesday, March 16

Senate Banking Committee remote hearing entitled: “Home = Life: the State of Housing in America” [2:00pm, remote] Witnesses: **Dr. Chris Herbert**, Managing Director, Harvard Joint Center for Housing Studies; **Ms. Diane Yentel**, President and CEO, National Low Income Housing Coalition; **Ms. Nikitra Bailey**, Executive Vice

President, Center for Responsible Lending; **Mr. Edward J. Pinto**, Director, AEI Housing Center; and **Mr. Ed DeMarco**, President, Housing Policy Council.

Wednesday, March 17

HFSC virtual hearing entitled: “Game Stopped? Who Wins and Loses When Short Sellers, Social Media, and Retail Investors Collide, Part II” [10:00am, Cisco WebEx] Witnesses not yet available.

Thursday, March 18

HFSC Subcommittee on Diversity and Inclusion virtual hearing entitled: “By the Numbers: How Diversity Data Can Measure Commitment to Diversity, Equity and Inclusion” [10:00am, Cisco WebEx] Witnesses not yet available.

Senate Banking Committee remote hearing entitled: “21st Century Economy: Protecting the Financial System from Risks Associated with Climate Change” [10:00am, Remote] Witnesses: **Dr. Nathaniel Keohane**, Senior Vice President, Climate, Environmental Defense Fund; **Ms. Marilyn Waite**, Climate and Clean Energy Finance Program Officer, The William and Flora Hewlett Foundation; **Dr. John Cochrane**, Senior Fellow, Hoover Institution, Stanford University; and **Dr. Benjamin Zycher**, Resident Scholar, American Enterprise Institute. Additional witnesses may be added at a later date.

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](#).

- **[REFORM202](#)**: At a wide-ranging hearing, HFSC today launched its inquiry into racial equity in the financial system. Democrats offered a sweeping array of solutions, with witnesses alleging discrimination in lending and the failure of the banking system for people of color.
- **[GSE-031021](#)**: As previously [noted](#), the CFPB has decided to restore the DTI-based QM along with the patch without withdrawing its price-based QM or the seasoning rule, essentially allowing mortgage lenders to do pretty much anything and sell as much of their volume as Fannie and Freddie will bear.
- **[INVESTRO16](#)**: While Senate Banking’s GameStop hearing today continued many of the partisan battles fought when HFSC held its [first hearing](#) on the matter, at least one area of consensus emerged today: the need to decrease settlement times.
- **[REFORM201](#)**: Although today’s Senate Banking hearing on Wall Street’s role was poorly attended, it nonetheless captures the theme Chairman Brown (D-OH) intends to guide his work this Congressional session: “Wall Street” incentives adversely affect equity, equality, economic growth, and social welfare and thus require structural, sweeping reform.

- **[INVESTOR15](#)**: The Senate Banking Committee today took up two of the more contentious nominations so far to come its way: those for Gary Gensler to chair the Securities and Exchange Commission and for Rohit Chopra to head the CFPB.
- **[GSE-030221](#)**: Critics of FHFA policy are finding still more affordable-housing ammunition to add to their anti-PSPA armament.
- **[GSE-022521](#)**: In a [new paper](#), Lew Ranieri, who needs no introduction, and Mike Calhoun of the Center for Responsible Lending float an important new idea along the way to turning the GSEs into the [utilities](#) presaged by actions under the Trump Administration to recast the conservatorship.
- **[FEDERALRESERVE61](#)**: At today's HFSC hearing, Chairman Powell not only delivered the same testimony, but faced many of the same questions to which he provided the same answers. He would not, for example, commit to ending the SLR exemption ([see FSM Report LEVERAGE23](#)) or to condition any continuing exemption on capital-distribution restrictions.
- **[GSE-022421](#)**: As anticipated in an earlier FedFin [report](#), we confirm that U.S. banking agencies plan to turn quickly to U.S. implementation of the 2017 "Basel IV" package.
- **[FEDERALRESERVE60](#)**: As usual, Senate Banking's hearing today with Chairman Powell strayed from monetary policy and post-pandemic prospects to a range of financial-policy critical questions.
- **[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.