



FedFin Daily Briefing

Wednesday, April 14, 2021

HFSC Prioritizes ILC-Charter Constraints

Advancing the chairwoman's effort to constrain non-traditional bank charters, HFSC's Consumer Protection and Financial Institutions Subcommittee will on Thursday consider two draft bills to limit ILC charters. The first measure was also introduced in the last Congress ([see FSM Report ILC13](#)) by Rep. García (D-IL) to impose Bank Holding Company Act restrictions on ILCs and their parents. The second [draft bill](#) would impose a three-year moratorium on ILC application approvals by the FDIC as also mandated in Dodd-Frank. GAO would be directed to analyze federal and state banking charters and market participants' use of technology, thereafter providing recommendations to promote priorities such as the separation of banking and commerce, consumer protection, diversity, inclusion, and financial stability. HFSC Democrats indicate that the FDIC's decision to grant deposit insurance to Square Financial and Nelnet Bank, and the agency's final rule on ILC-parent support obligations ([see FSM report ILC15](#)) warrant inquiry, but the staff memo provides no clear indication of the direction future action will take.

HFSC Prepares LIBOR-Transition Fix

HFSC's Investor Protection, Entrepreneurship, and Capital Markets Subcommittee will tomorrow take up federal legislation to improve the LIBOR transition, focusing on a measure to address prior contracts without sufficient fallback language or an alternative contractual rate. Specifically, the bill would allow certain existing contracts to remain binding, instead referencing SOFR or an alternative benchmark rate without contractual amendments. This significantly reduces financial-institution legal risk without delaying the overall LIBOR transition.

Reflecting an industry priority not yet fully accepted by the FRB, the Fed would also be directed to issue regulations regarding the appropriate SOFR or adjusted SOFR replacement rate for specific categories of LIBOR-based contracts. Many banks remain concerned that SOFR does not capture rates set with regard to credit risk across an array of retail financial agreements. We expect legislation along these lines to move quickly through the House and face little opposition in the Senate, although the usual procedural obstacles in the Senate may slow action. We will tomorrow provide clients with an in-depth assessment of the hearing, which features testimony from senior government officials.

Basel: More, Better Data Needed to Quantify Climate Risk

The Basel Committee [today](#) issued two reports on climate financial risk, concluding that climate-risk drivers can be captured in traditional financial risk categories but data gaps and general uncertainty still bar robust quantification. Basel thus will not issue any policy recommendations, working this year instead on a comprehensive mapping exercise to assess which additional data are needed, how granular they should be, and how best to obtain them. Basel will also conduct research regarding how climate risk drivers feed into transmission channels and the importance of different risk amplifiers and mitigants to help banks and supervisors better focus their work.

As we noted [earlier this week](#), some central banks and supervisors are pushing for near-term action on climate-risk stress tests and capital buffers. Basel's findings make it clear that the overall agency setting

global policy will not move anywhere near that quickly, a policy consistent with the Federal reserve's preferred approach ([see Client Report GREEN2](#)).

Gensler Gets the Go-Ahead

As anticipated, the Senate today confirmed Gary Gensler to head the SEC by a contentious 53-45 vote. As detailed when Mr. Gensler was nominated ([see Client Report INVESTOR14](#)), we expect the Gensler SEC to build on Acting Chair Lee's ambitious ESG, climate-risk, and proxy actions. As that report notes, we also expect the SEC to side with FSOC this time around on MMF and broader fund reforms and to take a tough stand on market integrity in the wake of GameStop. FedFin's assessment of Archegos' aftermath ([see Client Report HEDGE59](#)) also lays out the actions Mr. Gensler will almost surely pursue not only to increase market transparency, but also to reassert the Commission's authority over prime brokerages housed in banking organizations. The SEC fought hard in 1999 against the "push-out" language in the Gramm-Leach-Bliley Act that gave the FRB primary authority over brokerages in financial holding companies, and it will use this case along with prior ones to reassert its claim. Changing law or getting FSOC concessions to the Commission are likely to be difficult, but the SEC still has an array of tools it can use over prime brokers and we expect Mr. Gensler to use them, especially when it comes to those housed in foreign banking organizations where his thinking of the efficacy of home-country regulation may not be flattering.

Waters Presses Affordable Housing, Infrastructure Bank

Today's HFSC [full committee hearing](#) on financial infrastructure focused primarily on public housing and Republican opposition to President Biden's infrastructure plan. However [as anticipated](#), Chairwoman Waters (D-CA) also emphasized the need for the committee's draft legislation creating a National Investment Authority (NIA) to back public-private infrastructure financing. Reps. Foster (D-IL), Dean (D-PA), García (D-IL), Garcia (D-TX), and Auchincloss (D-MA) all supported the proposal. Chairwoman Waters also pressed her new bill, the Housing is Infrastructure Act, which includes increased funding for downpayment assistance, the National Housing Trust Fund, and fair housing enforcement. Rep. Luetkemeyer (R-MO) opposed a funding increase for the National Housing Trust Fund.

Members also discussed green finance. Chairwoman Waters along with Reps. Meeks (D-NY) and Ocasio-Cortez (D-NY) highlighted the importance of investing in resilient housing, while Rep. Perlmutter (D-CO) urged HUD to adopt green building standards. Rep. Sherman (D-CA) criticized FHFA's decision to allow green loans to count against Fannie and Freddie's lending cap, reducing the amount of apartment loans the GSEs purchase. Rep. Velázquez (D-NY) also discussed her "Federal-Financing Bank Risk-Sharing Act" which would reestablish Federal Financing Bank funding for HUD insured multi-family risk-sharing mortgages.

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](#).

- [GSE-041421](#): A new study from the Federal Reserve Bank of New York contradicts many assertions that COVID's mortgage-market mania disadvantages first-time homeowners.
- [INFRASTRUCTURE7](#): Sen. Joe Manchin (D-WV) recently reiterated that he believes an "infrastructure bank" would be an appealing way to fund significant U.S. investment without the direct cost associated with President Biden's plan.
- [GSE-040621](#): Just to be sure servicers got the message sent last week that the CFPB has them in its [crosshairs](#), the agency yesterday [proposed](#) sweeping changes to provide far-reaching foreclosure protections on all forbore or delinquent mortgages, not just those subject to the statutory protection afforded federal loans.
- [AI](#): Advancing their efforts to ensure "responsible innovation," federal agencies have taken an initial, cautious step into assessing the prudential, compliance, risk-management, and fairness implications of artificial intelligence (AI) and machine learning (ML).
- [HEDGE59](#): The stunning collapse of the leveraged family office, Archegos, and its impact on the financial system has renewed calls for an array of regulatory initiatives.
- [REFORM204](#): Following yesterday's HFSC session ([see Client Report REFORM203](#)), Secretary Yellen and Chairman Powell today faced Senate Banking and, as before, a raft of questions with little to do with the hearing's ostensible focus on CARES Act programs.
- [REFORM203](#): At today's HFSC hearing on pandemic-relief programs, Members asked also about key financial-policy questions.
- [GSE-032321](#): Last week, [we analyzed](#) a Federal Reserve study showing that unemployment is still inexorably linked to mortgage-default risk.
- [GSE-032221](#): As [we predicted](#), federal banking agencies didn't back down: the [SLR exemption](#) for central-bank reserves and Treasuries is no more as of April 1.
- [GREEN7](#): Today's Senate Banking Committee hearing on climate risk made it clear that the partisan divide evident earlier this week on housing ([see Client Report MORTGAGE119](#)) and much else extends to what financial regulators should do about climate risk.
- [GREEN6](#): Reflecting views of the Biden Administration and those of its nominee to chair the SEC, Acting Chair Allison Herren Lee is requesting public views ahead of more formal proposals revising the climate-risk disclosures to be required of publicly registered companies.
- [GSE-031721](#): As our in-depth report makes clear, the Senate Banking (and Housing!) Committee's hearing yesterday showed the wide partisan chasm between what Democrats and Republicans want of the GSEs.
- [MORTGAGE119](#): Reflecting Chairman Brown's (D-OH) prioritization of the "housing" jurisdiction under Senate Banking, the panel's hearing today addressed not only GSE reform, but a sweeping range of rental and affordable-housing considerations in concert with lending discrimination and housing finance.

- **UDAP7:** Continuing the quick reversal of numerous Trump-era policies, the CFPB has ended a controversial policy statement providing consumer-finance companies with considerable protection from assertions of abusive acts or practices.
- **GSE-031621:** A new [FEDS Note](#) unpacks the unprecedented patterns of mortgage default risk during the pandemic to find that unemployment will tell the default tale.
- **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.