



# *FedFin Daily Briefing*

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Thursday, May 20, 2021

## **Brown Adds to Anti-Crypto Pressure on OCC**

Even as the Acting Comptroller told HFSC that he has qualms about crypto charters ([see Client Report REFORM205](#)), Senate Banking Chairman Brown (D-OH) sent him a [letter](#) urging a complete OCC halt to any more of the [charters advanced by two former agency heads](#) pending thorough review not only of these charters, but also of the procedures applicable to their considerations.

However, Sen. Brown's concerns go beyond crypto charters to any authorized for non-traditional parent companies, arguing that any entity that does not meet all the standards applicable to banks should not be allowed to represent itself as a bank. Sen. Brown's letter hints at no action by his committee. Although he has made it more than clear that he opposes non-traditional charters in the past, a recent hearing called to consider them ([see Client Report PREEMPT36](#)) focused instead on revoking the true-lender rule as the Senate subsequently did. We expect Congress to turn more directly to charters once the House has acted on the Congressional Review Act true-lender resolution, but the most likely outcome of legislative proceedings will be still more pressure on the OCC to block the non-traditional charters absent like-kind rules and, under pressure, a more circumspect policy at the FDIC to advance only limited classes of ILC charters. A forthcoming FedFin issues brief will analyze this issue in greater depth.

## **House-Passed Bill Renews Efforts to Tap the Fed for Funding**

The House yesterday passed seven bipartisan banking bills, including H.R. 1711 from Rep. David Scott (D-GA). The measure would establish a CFPB Office of Community Affairs to coordinate interagency research on obstacles to banking-access in un/underbanked communities and to identify best practices to increase participation. The office has no rulemaking or policy role but would be required to report to Congress every two years. Of perhaps still more interest is the fact that the bill is funded by a slight shift in Fed transfers to the Treasury – i.e., use of the Fed as a funding source to ease PAYGO concerns in ways some fear will adversely affect the central bank's mandate. Although the amounts involved here are small and the provision takes effect only in 2031, it may prove precedent-setting as larger fiscal battles ensue along the lines [previously noted](#).

## **Brown Takes Anti-Wall Street Campaign to Infrastructure Legislation**

Although much of today's Senate Banking hearing focused on the infrastructure bill, affordable housing, and transportation, Chairman Brown (D-OH) continued his criticism of what he believes is a Wall Street-centered economy, saying it has left the rest of the country to "fend for themselves." Sen. Warner (D-VA) reiterated he is working on a bill targeting first generation homebuyers that would create a twenty-year mortgage with a thirty-year amortization rate through Ginnie Mae ([see Client Report MORTGAGE119](#)). Sen. Warner also asked about funding CDFIs; HUD Secretary Fudge suggested that small businesses did not get sufficient PPP funding because resources were directed to larger banks, emphasizing the importance of CDFIs and small banks in supporting low-income communities. Following Senate Finance's bipartisan support of infrastructure bonds [earlier this week](#), Sen. Hagerty (R-TN) highlighted the importance of incentivizing private capital in infrastructure, noting the use of private activity bonds by the Build America Bureau at the Department of Transportation; DOT Secretary Buttigieg agreed.

## Biden Plan Insists on Expanded 1099s

Although potential crypto-transaction tax reporting requirements are grabbing early headlines, President Biden's [tax-compliance plan](#) also includes controversial bank reporting requirements despite strong industry efforts to block them. The Treasury report indicates that financial flows would now be subject to third-party reporting, requiring banks – including foreign ones – to report a range of data on Form 1099-INT, now required when taxpayers earn more than \$10 in interest. Gross inflows and outflows on all business and personal accounts would be captured, including transaction, savings, loan, and investment accounts. Exemptions are planned for accounts below a de minimis gross flow threshold, with discretion on where to set this threshold reserved for the Treasury Secretary and IRS under the auspices of preserving flexibility to ensure the most effective tax-compliance efforts.

## Fed Sets Course Towards CBDC

In the unusual format of a [video statement](#), FRB Chairman Powell today laid out the Fed's new CBDC strategy. Although much in the statement echoed prior Fed comments – i.e., that CBDC should not replace cash or the banking system -- the statement makes it clear that the Fed is bent on developing a digital currency or take other steps to ensure Fed control of systems Mr. Powell describes as essential to the "effective functioning of our economy." The Board will thus issue a discussion paper for public comment this summer raising an array of CBDC considerations – inclusion among them – setting the stage for future Fed action as work by the Federal Reserve Bank of Boston and MIT continues.

The statement also includes a brief history of how the Fed has come to control the payment system, an issue of ongoing debate as FedNow takes shape and the central bank contemplates opening payment-system access ([see FSM Report PAYMENT20](#)). The goal of the work announced today is stated as advancing work to "refine" the Fed's role as a core payment-service provider.

Although Mr. Powell's statement reiterates longstanding Fed concerns about digital currency (e.g., volatility, lack of regulation), it for the first time concedes that stablecoins could enhance payment-system functionality under proper circumstances the Fed is now planning to define. Adding more heft to the Fed's new direction towards a CBDC, the statement also says that, while the Fed has as yet not decided on a CBDC, it will be actively engaged in global efforts related to their construct and interaction with the global payment system.

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## 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](http://www.fedfin.com) or clients may obtain the reports/analyses by e-mailing [info@fedfin.com](mailto:info@fedfin.com) giving the requested item name, firm, and e-mail address. To learn more about *GSE Activity Reports*, click [here](#).

- [GSE-052021](#): Using its formidable trove of non-public data, the Federal Reserve Bank of New York has released a series of staff reports assessing the status of mortgage forbearance.
- [REFORM205](#): Although the banking agencies today tried to make as little news as possible in their appearance before the House Financial Services Committee, Members made it hard for them to leave the witness table without providing important insight into regulatory policy as a new agency line-up takes shape.

- **[INTERCHAGE8](#)**: Leaving its interchange-fee restrictions intact – at least for now – the Federal Reserve is proposing to expand on its existing requirement that all debit-card transactions must be enabled for processing on at least two unaffiliated payment-card networks for card-not-present (e.g., online) transactions.
- **[GSE-051821](#)**: As we noted [yesterday](#) in our initial assessment of FHFA's annual CRT report, its assessment of the critical 2020-21 period shows an unbending determination to quash all but the best-capitalized credit-risk transfers no matter the pressure from Congress and other quarters to relent on grounds that risk transfers reduce GSE risk and thus spur recapitalization and privatization.
- **[DEPOITINSURANCE112](#)**: Although federal law expressly bars misrepresentation of FDIC-insurance status, the FDIC has observed increasing instances that might at the least be described as confusing, many of which led to informal enforcement actions.
- **[GSE-051221](#)**: A new [Fed staff paper](#) sharply questions an axiom of mortgage securitization: the sanctity of the TBA market.
- **[SYSTEMIC91](#)**: In this report, we assess the details of the Fed's most recent financial-stability report, focusing on policy and regulatory ramifications with near-term strategic impact.
- **[GSE-051021](#)**: As detailed in a [new FedFin report](#), the Fed's proposal to open payment-system access is far from the technicality many nonbankers take it to be.
- **[PAYMENT22](#)**: When the Fed announced its new instant payment system in 2020, it made it clear that access would be limited to traditional insured depository institutions (IDIs) and ever since has shown no public inclination to open the system.
- **[INVESTOR7](#)**: Today's HFSC hearing on the lessons of GameStop featured SEC Chairman Gensler for his first Congressional appearance in this new role and, as detailed in this report, a lengthy list of initiatives now under way at the Commission not only on equity-market trading integrity and systemic risk, but also Archegos and digital currency.
- **[GSE-050521](#)**: Ahead of possible systemic designation for Fannie and Freddie, FHFA is barreling through the systemic rulebook, finalizing [capital rules](#), proposing [liquidity standards](#), and, now, [finalizing](#) living-will requirements to ensure orderly GSE resolution under even acute stress.
- **[GSE-050321](#)**: The month of May may not be merry in Washington, but it's always consequential. Legislation with any serious hope of success in this session of Congress should be showing signs of determined life by now under ordinary circumstances.
- **[GSE-043021](#)**: Earlier today, we provided clients with an [in-depth analysis](#) of sweeping progressive legislation revising both the Community Reinvestment Act and the duties of lenders, servicers, the GSEs, and FHA with regard to loan modification and asset dispositions.
- **[PREEMPT36](#)**: At today's Senate Banking hearing, Democrats strongly objected to the OCC's True Lender rule, arguing it supports rent-a-bank schemes based on preemption of state usury and consumer-protection law.
- **[GSE-042821](#)**: As we [anticipated](#), FHFA today [announced](#) a new refi product aimed at increasing the benefits of ultra-low rates for under-served borrowers and, we would guess, also distracting political attention from the continuing contretemps over [investor-property limitations](#).

- **DIVERSITY2**: The House Financial Services Committee has approved legislation intended to force federal examiners to hold banks accountable for their diversity and inclusion efforts.
- **LIBOR5**: Following Fed agreement earlier this year that federal legislation is needed, the HFSC Capital Markets Subcommittee today laid the groundwork for rapid introduction and action on Chairman Sherman's draft bill.
- **ILC16**: As anticipated, HFSC Democrats today continued their attack on non-traditional bank charters, with Chairwoman Waters (D-CA) pushing for no new ILC approvals and revoking the OCC's special-purpose charters.
- **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.