



# *FedFin Daily Briefing*

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Wednesday, June 16, 2021

## **GOP Senators Start Bidding War on Antitrust Reform**

Joining the rush of [Congressional bills aimed at antitrust reform](#), Senators Lee (R-UT) and Grassley (R-ID) have introduced S. 2039, legislation positioning Senate Republicans as Antitrust Subcommittee Chair Klobuchar (D-MN) readies her panel for action on her bill (S. 225). In sharp contrast to recent House bills, the GOP measure is generally sector-neutral, paralleling here the Klobuchar measure but also requiring retroactive looks at some tech companies. The bill also bars certain firms from self-preferencing their products and services, an approach with considerable financial-sector implications also assessed in Monday's client alert. However, in sharp contrast to the Democratic approach, the measure focuses on realigning government agencies and increasing penalties for antitrust violations rather than redefining when these violations occur. Although the bill now adds a market-share component to merger analysis designed to dissuade big M&A, it also requires a series of rules and other actions designed to ensure that antitrust enforcement does not undermine competition. In a highly-controversial section, the measure would also open state-licensing requirements in many areas for antitrust scrutiny and codify the consumer-welfare standard.

## **BIS Continues Campaign for Fintech/Designation, Not Just Like-Kind Regulation**

In [speech earlier today](#), the head of the BIS's Financial Stability Institute, Fernando Restoy, continued the BIS campaign not just for like-kind activity regulation of fintech and bigtech, but also for entities-based regulation in key cases. Following Managing Director Carstens' [lead](#), Mr. Restoy said that the risks of the same activity in different entities are not always the same. For example, lending in one entity poses more risk if it is outside the regulatory perimeter than the same underwriting standards in a regulated company. Like-kind activity standards also do not address [threats to competitiveness](#), an issue of course of keen concern in the U.S. Mr. Restoy thus calls for fintech/bigtech standards to directly address financial-stability and competitiveness concerns. However, the testimony only describes various efforts under way in this arena; it does not recommend specific global or EU policies.

## **Waters Ramps Up Digital-Asset Action Plan**

HFSC Chairwoman Waters (D-CA) [today](#) announced the roster for a new, all-Democrat Digital Assets Working Group. [Yesterday](#), Rep. Waters laid out deep concerns with cryptoassets but said also that HFSC will hold a series of hearings on them. The group is not empowered to hold hearings under committee rules, but will instead focus on ensuring "responsible innovation in the cryptocurrency and digital asset space," with Chairwoman Waters going on to identify cryptocurrency regulation, the use of blockchain/DLT, and CBDC development as targets for near-term review. Although the group does not have a formal chair, Rep. Sherman (D-CA) is the most senior member of the group; fellow subcommittee Chairs Green (D-TX) and Himes (D-CT) as well as Task Force Chairs Foster (D-IL) and Lynch (D-MA) have also been appointed. So senior a roster suggests one of Chairwoman Waters' goals is resolving jurisdictional struggles ahead of time to smooth legislative work thereafter.

## CFPB Cracks Down on Military Lending

Responding to strong demands from Congressional Democrats, the CFPB today unsurprisingly reversed the Trump Administration agency's finding that it lacked statutory authority to examine lenders and thus enforce the Military Lending Act. [Issuing](#) what is described as an "interpretive rule," the agency will now enforce key statutory requirements (e.g., a 36 percent interest ceiling, pre-payment fees, mandatory arbitration, and constraints on other credit practices). The rule will be effective when it is published in the *Federal Register* and there is no request for comment or indication that this is any way an interim action. The CFPB says that no notice of proposed rulemaking is required without explaining why that might be so, noting only that no new paperwork or reporting requirements necessitate public comment. The rule will, however, be submitted to Congress under the Review Act; we do not expect any action by Republicans to overturn it. Should there be any, no such resolution will advance.

## SLR Seems Set for Rewrite; How, When Remain TBD

At his press conference today, Chairman Powell renewed big-bank hopes for a revised SLR. Although Vice Chairman Quarles [earlier this month suggested](#) that the Fed was thinking about other approaches to handle deposit growth, Mr. Powell emphasized that the leverage ratio may again be a binding constraint, not the back-up buffer for which it is intended. He provided no timetable for any action, saying only that whatever the Fed does will not reduce regulatory capital. Most of the questioning today focused on inflation, QE, and labor markets, but Mr. Powell was also asked about the decision to increase IORB and the ONRRP rate by five basis points. He noted what the FOMC believes to be temporary stresses in short-term markets that are pushing rates down below the Fed's desired range, warranting action at least for now to bolster the rate floor. The Fed chair acknowledged that doing so affects money markets without saying how – we would have thought failing to do so and thus making negative short-term rates still more likely would be far more disruptive. Regardless, Mr. Powell said that the Fed's focus is rate control, not the money markets. What MMFs are to make of this as they continue to fear the need for negative distributions or other actions is unclear.

## Recent Files Available for Downloading

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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-061621](#): As [detailed in our new in-depth report](#), the Basel Committee is proposing a new regulatory framework for bank exposures to cryptoassets that will influence not only what banks do in this critical arena, but also what the GSEs can do and thus what happens to the [digital mortgage](#).
- [CRYPTO19](#): Advancing some of the most controversial ideas in a 2019 discussion paper, the Basel Committee has now formally proposed capital, liquidity, risk-management, and supervisory standards it believes nations should apply to bank cryptoasset exposures.
- [CBDC5](#): Kicking off Congressional action on CBDC, the hearing today in Senate Banking's Economic Policy Subcommittee made it clear that, as we forecast, progressive Democrats such as Chairwoman Warren (D-MA) are strong supporters of a U.S. CBDC that not only facilitates payments, but also supplants retail banks and other private-sector consumer-finance entities.

- [GSE-060821](#): This Friday, FSOC will meet in closed session to craft its agenda for 2021 and beyond. Housing and the GSEs will figure prominently in this work plan, but not as you might think.
- [PAYMENT23](#): Continuing work on a priority set by the Group of Twenty heads of state, the FSB in consultation with other global bodies is seeking views on how best to measure progress towards the G20's goal of a faster, safer, cheaper, transparent, and inclusive cross-border payment system.  
  
[CBDC4](#): Members of Congress have launched an initiative to secure continued dominance of the dollar as the globe's reserve currency, focusing on the extent to which China could over time threaten this via its own CBDC along with strategic financial activities such as its Belt and Roads initiative.
- [GSIB19](#): Although the GSIB CEOs got another earful at HFSC's marathon hearing yesterday, it – like the Senate Banking session that preceded it (see Client Report GSIB18) – generated more anger than clear action plans.
- [CRYPTO18](#): Following an array of actions by the OCC, the FDIC has begun its consideration of the rules governing insured depository institutions (IDIs) engaged in digital-asset activities.
- [GSIB18](#): As anticipated, Senate Banking progressives today excoriated big-bank CEOs for what Chairman Brown (D-OH) describes as their preference for profit over public welfare.
- [ACCESS](#): The Federal Reserve's latest wellbeing survey provides important, new insights into how Americans view their financial-services firms at a time of heightened focus on access and equity.
- [REFORM206](#): In the one-two punch [we anticipated](#), Senate Banking Chairman Brown (D-OH) convened today's hearing with FRB Vice Chairman Quarles not only to lambast supervision and regulation under Mr. Quarles' watch, but also to reiterate the malign role [he believes](#) big banks play in the U.S. economy ahead of tomorrow's hearing with GSIB CEOs.
- [GSE-052521](#): President Biden has issued an executive order (EO) setting in motion a series of administrative actions designed to reduce both climate risk in the financial sector and in any way financial companies make it worse.
- [GREEN8](#): President Biden has issued an executive order (EO) setting in motion a series of administrative actions designed to reduce both climate risk in the financial sector and in any way financial companies make it worse.
- [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.