FedFin Daily Briefing

Wednesday, June 23, 2021

SEC Climate, Human-Capital Disclosures May Skirt the Most Contentious Questions

In remarks today, SEC chairman Gensler provided far more detail on pending SEC-mandated disclosures addressing climate risk and human capital. Reflecting the President's executive order, the climate-risk disclosures would be extensive but not necessarily quantitative. Mr. Gensler has directed that the climate-risk disclosures focus on governance, strategy, and risk-management, as well as those related to forward-looking climate commitments and actions in nations with specific climate-risk requirements, with staff directed also to address how funds that market themselves as "green" actually invest. However, staff is also looking at the extent to which specific metrics would be useful to investors.

Human-capital disclosures could focus on issues such as turnover, workforce development, diversity, and health and safety. While compensation disclosures are also possible, the chairman does not note whether these would include the CEO: worker ratios demanded by some progressive Democrats. Mr. Gensler's speech also breaks new ground for him on LIBOR replacements, opposing bank efforts to use short-term rates based on bank funding, echoing conclusions at the recent FSOC meeting. Mr. Gensler also reiterated plans to address payment for order flow, dark pools, and other market transparency and structure issues, including new disclosures for securities swaps to prevent Archegos repeats.

BIS Affirms CBDC Benefits

The BIS today released its strongest statement to date on CBDC, unequivocally affirming that CBDC is likely to further the public interest. BIS General Manager Carstens has on several occasions argued that CBDC may improve public welfare, but only under certain conditions – i.e., that it be account, not token based, act primarily as a means of payment, and be small relative to the financial system. The policy paper released today – which will be included as a chapter in the forthcoming BIS Annual Report – concurs with all these conditions. The paper also analyzes key issues such as cross-border payments, digital IDs, and privacy. Given the Fed's forthcoming discussion paper on CBDC and fast-moving global action, FedFin will shortly provide clients with an in-depth analysis of the BIS paper.

Calabria's Departure Imminent Following SCOTUS Decision

FHFA Director Calabria has already signaled his tenure as FHFA director is at an end after the Supreme Court today ruled in an essentially 7-2 decision that FHFA's structure is unconstitutional and that the President must be able to remove the FHFA director at will. The decision was joined in full by five justices, four joined in various parts, and a partial dissent was filed by two justices. This notably differs from the 5-4 decision last year requiring that the President be able to fire CFPB director at will (see Client Report **STRUCTURE14**), however the particulars of that case are somewhat different – two justices then agreed with the majority that the CFPB director can be fired at will, but dissented based on their belief the ruling should apply to all independent agencies; the Court's composition has also changed.

The decision also affirmed that FHFA did not exceed its authority as conservator for the GSEs and dismissed shareholder claims that the 2012 agreement between FHFA and Treasury implementing the net-worth sweep is unconstitutional. Despite the dismissal, the case is not fully settled; the decision remanded this back to the lower court to give shareholders the opportunity to demonstrate they were harmed by an FHFA director insulated from Presidential control now that this is resolved. FedFin is conducting and detailed review of the decision and its impact; we will shortly provide clients with an in-depth analysis.

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-062321**: There is much rejoicing in mortgage-industry land that the Supreme Court decision today means rapid repeal of Mark Calabria's regulatory legacy and still more rejoicing among affordable-housing advocates about GSEs yoked to a new public-welfare and racial-equity mission without any hope of an end to the conservatorship.

- **CHINA16**: The Senate has passed by a wide margin legislation taking an array of actions to counter the threat now seen to be posed by the People's Republic of China.

- **GSE-061721**: We have reviewed FHFA's massive report to Congress on its 2020 activities, finding only lots of handy facts and no significant policy insights.

- **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.

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