



# FedFin Weekly Alert

Monday, August 2, 2021

## ❑ BRING IT ON HOME

As FedFin's recent in-depth report makes clear ([see FSM Report VENDOR9](#)), the inter-agency proposal on third-party risk management is anything but the technical clean-up for which many have mistaken it. By extending the full scope of bank safety-and-soundness and consumer-protection rules to anyone with whom a bank does business of any sort, the proposal is nothing short of a sweeping effort to export banking rules across the financial sector. We doubt it will come up at Tuesday's Senate Banking hearing with all of the banking agencies but the FRB – Randy Quarles already got a hearing all his own, ([see Client Report REFORM206](#)). But, just because the outsourcing proposal per se won't be raised in the questioning doesn't mean it won't feature in many of the answers. That's because we expect tough questioning on:

- "Rent-A-Bank": Acting Comptroller Hsu will be closely questioned on his plans for any new true-lender rule ([see FSM Report PREEMPT35](#)) now that it's been overturned. The longer the White House goes without even nominating a Comptroller, the more Mr. Hsu is acting without the circumspection he initially took to his role. He is indeed no longer just a caretaker and thus will be expected by senators on both sides of the aisle to take action on this and many other issues pending before the OCC. Mr. Hsu may well point to the outsourcing rules' reach to nonbank relationships to show that his agency has joined with the FRB and FDIC to take a still tougher stand on rent-a-bank, allowing a new version of the true-lender rule to clarify rate-ceiling applicability when a national bank is a much truer lender than required in the first OCC go-round.
- Crypto Charters: Mr. Hsu has put these on hold and will need to explain to Sen. Lummis (R-WY) why since her state is home to Kraken, one of the biggest beneficiaries of the Trump Administration's Acting Comptrollers crypto largesse ([see FSM Report CRYPTO15](#)). We expect Mr. Hsu to stand firm against further charters until completion of a full-scope review.
- ILCs: FDIC Chair McWilliams will come under Democratic criticism for the non-traditional charters she's granted so far and those they fear to come. She will surely point not only to the FDIC's recent source-of-strength rule for parent companies ([see FSM Report ILC15](#)), but also to the outsourcing proposal, which includes holding companies and affiliates within its reach. This we doubt will satisfy Chairman Brown (D-OH) or Sen. Warren (D-MA), but that's all they are likely to hear from Ms. McWilliams. The FDIC will not change substantive course even if it slows action on non-traditional charters until the Biden Administration proposes

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nominations for the two empty seats on the FDIC board (Marty Gruenberg is a hold-over).

Of course, these structural questions aren't all the regulators are likely to receive. Republicans will pummel Mr. Hsu on the extent to which he allows national banks to reduce lending to brown entities, reasserting the discrimination arguments in a now-abandoned Trump Administration "fair-access" proposal ([see FSM Report ESG3](#)). All of the banking agencies will be asked to update plans for interagency CRA rules now that they have formally announced they proceed jointly on the Fed's ANPR ([see FSM Report CRA30](#)). NCUA Chairman Harper might come in for more than a few questions of his own on the extent to which credit unions should come under CRA. Sen. Cortez Masto (D-NV) may also renew the "rent-a-credit-union" inquiry launched at last week's hearing on usury ceilings ([see Client Report PREEMPT37](#)).

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## Headlines From the Past Week's Daily Briefings

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### July 26

- **HFSC Set for Voting on LIBOR Legacy-Contract Safe Harbor** - HFSC has released a list of the bills set for mark-up.
- **Global Standards Advance for ESG Ratings, Data** - IOSCO released proposed standards for ESG ratings and data-product providers, demanding high level public disclosures on methodologies, processes, and other matters to promote transparency and consistency in a sector of growing importance to investors, regulators, and issuers increasingly eager to cater to the fast-growing ESG sector.
- **HFSC Continues Deliberative Approach to CBDC** - HFSC's staff memo lists no legislative proposals for National Security, International Development, and Monetary Policy Subcommittee CBDC hearing.
- **IMF Throws Roadblock Before Crypto Fiat Currency** - On the heels of El Salvador's adoption of Bitcoin as legal tender, a new blog post from the IMF warns against making cryptoassets a fiat currency.
- **Termination of Insurance M&A Confirms Tough New U.S. Antitrust Approach** - Attorney General Garland's statement makes it clear that its victory in the insurance-brokering sector is not a one-off.

### July 27

- **Partisan Divide Deepens Over Regulating Crypto** - Senate Banking's cryptocurrency hearing unsurprisingly showed that partisan divisions continue, with Democrats urging quick action on a regulatory framework while Republicans argued that innovation should continue unfettered.

- **OCC Goes Green** - Following the FRB's lead, the OCC announced it has joined the Network for Greening the Financial System (NGFS) and appointed former Deputy Comptroller Darrin Benhart as its Climate Change Risk Officer.
- **Brown: CFPB Must Address Fintech Risk** - Chairman Brown (D-OH) asked the CFPB to detail its plans for addressing risks from fintechs and other nonbanks, citing recent reports that one fintech, Chime, closed customers' accounts without their permission.

## July 28

- **Gensler: SEC Preparing Mandatory Climate-Risk Disclosures** - Underscoring the urgency with which the SEC is now moving on climate risk, Chair Gensler indicated that he has asked SEC staff to develop a proposal for mandatory climate risk disclosure by year-end.
- **Fed Opens Two New Window, Keeps a Third Wide Open** - Rejecting those at the Fed who feared the moral hazards of a still wider safety net, the FOMC agreed to create two stand-by repo facilities, one for primary dealers and depository institutions and another for approved foreign central banks and international accounts.
- **Powell Defends High Bank Capital as Crisis Preventative** - Asked about the impact of the Fed's regulatory policies on lower-income household credit availability, FRB Chair Powell pushed back hard, saying that high bank capital ratios – especially at the biggest banks – prevent the financial crises that do the greatest damage to the economically vulnerable.
- **Powell Defends High Bank Capital as Crisis Preventative** - HFSC mark-up continues as of COB.

## July 29

- **MF Rolls Out New Role for Itself, New Digital-Currency Principles** - The IMF announced a sweeping new digital-currency policy initiative designed not only to give itself a new job setting global policy in this already crowded arena, but also to focus on financial-inclusion considerations.
- **HFSC Advances LIBOR Fix as FRB, OCC Issue Transition FAQs** - Continuing its mark-up, HFSC considered Rep. Sherman's (D-CA) bill (H.R. 4616) to provide federal clarity for legacy LIBOR contracts.

## July 30

- **SEC Cracks Down on Chinese Listings** - Following remarks from SEC Commissioner Lee and a request from GOP Senators, SEC Chair Gensler directed staff to obtain certain disclosures from offshore issuers associated with operating companies based in China prior to approving their registration statements.

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## This Week

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### Tuesday, August 3

Senate Banking executive session [10:00am, 538 Dirksen SOB] Nominee: Mr. **Damon Y. Smith**, of Maryland, to be General Counsel, Department of Housing and Urban Development.

Senate Banking hearing entitled: "Oversight of Regulators: Does our Financial System Work for Everyone?" [10:00am, 538 Dirksen SOB] Witnesses: The Honorable **Todd M. Harper**, Chairman, National Credit Union Administration; The Honorable **Jelena McWilliams**, Chairman, Federal Deposit Insurance Corporation; and Mr. **Michael J. Hsu**, Acting Comptroller, Office of the Comptroller of the Currency.

Senate Banking Subcommittee on Financial Institutions and Consumer Protection hearing entitled: "Protecting Consumers from Financial Fraud and Scams in the Pandemic Recovery." [2:30pm, 538 Dirksen SOB] Witness: Ms. **Liz Coyle**, Executive Director, Georgia Watch. Additional witnesses may be added at a later date.

### Thursday, August 5

Senate Banking nomination hearing [10:00am, 538 Dirksen SOB] Nominees: Ms. **Julia R. Gordon**, of Maryland, to be Assistant Secretary of Housing and Urban Development; Mr. **David Uejio**, of California, to be Assistant Secretary of Housing and Urban Development; and Mr. **Solomon J. Greene**, of the District of Columbia, to be Assistant Secretary of Housing and Urban Development.

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## 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-073021](#)**: As promised, we here [follow up our assessment](#) of Ginnie's proposed prudential standards for nonbank mortgage companies with an analysis of model rules aimed at the same goal from the Conference of State Bank Supervisors (CSBS).
- **[PREEMPT37](#)**: Senate Banking today held a hearing on new legislation (S. 2508) from Sen. Reed (D-RI) extending the Military Lending Act (MLA) interest-rate cap to certain consumer financial products to all consumers.
- **[GSE-072821](#)**: Ginnie's proposed new capital and, to a lesser extent, its liquidity [standards](#) could well redefine the mortgage playing field.
- **[CBDC7](#)**: Today's HFSC National Security Subcommittee hearing on CBDC featured bipartisan concern over China's threat to U.S. Dollar supremacy and the effectiveness of U.S. sanctions without a U.S. CBDC.

- **[ACCESS2](#)**: At a very well-attended HFSC Consumer Protection Subcommittee hearing, Democrats strongly supported government-led solutions to increase financial inclusion.
- **[VENDOR9](#)**: The banking agencies have proposed sweeping standards that would hold all of the banking organizations they govern responsible for the safety and soundness, consumer compliance, and perhaps even diversity of a wide range of third-party business arrangements...
- **[GSE-071621](#)**: Later today, we'll provide clients with a summary of key provisions in the [housing-infrastructure package](#) released earlier today by HFSC Chairwoman Waters.
- **[FEDERALRESERVE63](#)**: Signaling a tough challenge for a second Powell term, Senate Banking Chairman Brown (D-OH) today said, "It's time to try something different," also joining Sen. Warren (D-MA) lambasting Mr. Powell's role in what they characterize as risky big-bank regulatory relief.
- **[FEDERALRESERVE62](#)**: Although much of today's HFSC hearing with Chairman Powell was preoccupied by hot debate over the extent to which inflation is "transitory," key financial-policy questions also surfaced for substantive discussion.
- **[GSE-071221](#)**: On Friday, former FHFA Director Calabria [suggested](#) that the Administration's [new competition policy](#) powers up his proposal for authorizing multiple GSE charters just as a bank charter is granted to all qualified comers.
- **[MERGER6](#)**: In an [executive order \(EO\)](#) that truly deserves to be called "sweeping," President Biden today announced a "whole-of-government" initiative aimed at reducing market concentration, enhancing consumer choice, reducing prices, and enhancing economic equality.
- **[GSE-070821](#)**: Our recent in-depth analysis details the range of options proposed by the Financial Stability Board for MMF reform. Here, we assess what this means for Fannie, Freddie, and the FHLBs.
- **[GSIB20](#)**: The House Financial Services Committee has approved legislation introduced by a progressive Democrat, Rep. Ayanna Pressley (D-MA), requiring GSIBs to disclose many quantitative and qualitative matters.
- **[MMF17](#)**: As promised late last year when it addressed nonbank financial intermediation (NBF), the Financial Stability Board is seeking comment on ways to reduce the risk that money-market funds (MMFs) succumb to runs under stress or, as occurred in both 2008 and 2020, require taxpayer backstops.
- **[GSE-070121](#)**: Continuing to act with awesome dispatch on its new director's racial-equity and economic-equality agenda, [FHFA today](#) issued a final policy statement setting new anti-discrimination standards for Fannie, Freddie, and the FHLBs.