



FedFin Daily Briefing

Monday, July 26, 2021

HFSC Set for Voting on LIBOR Legacy-Contract Safe Harbor

HFSC has released a [list of the bills](#) set for mark-up on Wednesday. As [anticipated](#), these include an amended version of H.R. 4616, Sherman (D-CA) legislation providing federal clarity for outstanding LIBOR contracts. Although the bill permits multiple benchmark replacement rates, they would all need to be tied to SOFR or an adjusted SOFR for consumer-loan products under Fed standards determining how best to do so. The bill's SOFR focus reflects the Fed's strong affinity for SOFR as well as a decision not to permit wide replacement-benchmark flexibility due to fears that this would reduce efforts to revise existing contracts

We expect debate at the mark-up to center on whether the Fed must allow at least some replacement benchmarks not linked to SOFR even for legacy contracts. If the bill passes (as we expect it will in the fall), widespread concerns about outstanding LIBOR-based contracts without appropriate fallback language would ease for all contracts subject to U.S. law. We will advise clients on any modifications to this bill in mark-up, with HFSC also set to consider the range of Robinhood and Archegos measures [highlighted last week](#).

Global Standards Advance for ESG Ratings, Data

IOSCO today 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. IOSCO also recommends that regulators consider whether their regimes provide enough oversight of ESG ratings and data products, suggesting that regulators consider conflicts of interest, whether data and information are publicly disclosed, whether methodologies are publicly disclosed, and if ratings and data products are consistent. The report also makes a variety of other recommendations for ESG ratings and data providers, including that regulators ensure that ratings and products are based on public data, require independence and objectivity, and maintain in confidence all non-public information. IOSCO also recommends that financial-market participants conduct due diligence on ESG ratings and data products. Comment is particularly sought on any differences between ESG rating and ESG data providers, with comment due by September 6.

This consultation comes as SEC Chairman Gensler stated that he intends to make climate disclosures a priority, announcing a [new initiative](#) focused on ESG funds earlier this month. This report also forms part of a broader IOSCO climate-risk initiative which includes sustainability-related [disclosures](#) and sustainability-related [practices](#) in asset management.

HFSC Continues Deliberative Approach to CBDC

HFSC's [staff memo](#) lists no legislative proposals for tomorrow's National Security, International Development, and Monetary Policy Subcommittee CBDC hearing. Instead, the session will focus on fact-finding, looking in particular at CBDC's impact on monetary-policy transmission, banking-sector disintermediation, and financial stability. The subcommittee will also explore how CBDC might impact national security, focusing on the Dollar's global status, AML/CFT, and sanctions. As [noted](#), Subcommittee Chair Himes (D-CT) has introduced legislation ([see FSM Report CBDC4](#)) to establish a government-wide policy prioritizing the Dollar's status as the primary global reserve currency, pressing quick action on CBDC

to ensure this. It is surprising that this bill is not specifically cited in the HFSC staff memo, complicating the extent to which this hearing will meet the committee's rules for formal consideration prior to mark-up.

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 today warns against making cryptoassets a fiat currency. Noting risks to macro-financial stability, financial integrity, consumer protection, and the environment, senior IMF officials argue that cryptoassets are too volatile and unrelated to the real economy to be used as a store of value. They also warn that widespread adoption of a cryptoasset would also harm monetary policy transmission, causing domestic price instability, while the technology needed to transfer cryptoassets remains scarce in many places, creating financial-inclusion problems. The post concludes that governments should themselves harness DLT to offer the advantages of a digital currency without the risks presented by private cryptocurrency.

Termination of Insurance M&A Confirms Tough New U.S. Antitrust Approach

Attorney General Garland's [statement today](#) makes it clear that its victory in the insurance-brokering sector is not a one-off. The Department filed suit in mid-June seeking to block the Aon and Willis Towers Watson transaction on grounds that combining two of the top three wholesale insurance brokers would reduce price competition and choice. He clearly rejected the firms' counter argument that market developments needed the data and other innovations powered by a merger, arguments that long persuaded U.S. antitrust authorities and swayed the EU when it earlier agreed to the merger after the companies agreed to divest several small operations. Although the litigation preceded President Biden's executive order ([see Client Report MERGER6](#)) mandating a stringent new approach to large financial transactions, it epitomizes the Administration's policy on financial-sector consolidation that would have easily passed muster just a few months ago. It also suggests that companies rushing to complete deals before a variety of studies mandated in the order are completed early next year may face immediate challenge in federal courts.

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](#).

- [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.
- [GSE-063021](#): With numerous modifications designed to make its [proposal](#) less onerous, the CFPB on Monday issued a [final rule](#) providing temporary foreclosure protection without the *de facto* moratorium that, had the Bureau [heeded](#) some on the Hill, would have prolonged nonpayment, possibly precipitating a flood of borrower requests which servicers could not reasonably be expected to handle with justice for all.
- [FCRA30](#): Today's HFSC hearing on credit reporting laid the foundation for legislative action on measures that will prove highly controversial.