



FedFin Daily Briefing

Wednesday, August 11, 2021

FRB-NY Official Stands by the Stand-By Facilities

In [remarks](#) today, senior FRB-NY official Lorie Logan made it clear that the Fed views the new stand-by [repo facilities](#) as a money-market backstop. Noting that the GFC and pandemic crisis had significant similarities despite differences in both cases and bank resilience, Ms. Logan focused on the ongoing need for precautionary liquidity. However, she said that policy responses and credit facilities cannot ensure sufficient liquidity in dash-for-cash scenarios. The new U.S. and international stand-by repo backstops will, she said, do so and thus bolster desired fed-funds rates and smooth market functioning. Ms. Logan did not, however, address the extent to which this backstop may offset the need for the MMF reform under consideration by global and U.S. regulators ([see FSM Report MMF17](#)), satisfying some MMF industry arguments that March of 2020 evidenced a broad market failure, not MMF illiquidity. We believe these efforts will continue because the Fed and Treasury more broadly believe that Treasury-market reforms such as the new SRF do not obviate the need for NBF1 regulation. Ms. Logan also does not address the long-term implications of as much as \$1 trillion or more moving out of the markets in order to support monetary policy, a concern neither Fed nor Treasury appear to share.

Gensler Asks Senate for Plenary Crypto Authority for SEC, CFTC, Banking Agencies

Responding to [Sen. Warren](#) (D-MA), a letter [released today](#) from SEC Chairman Gensler requests that the Commission and other regulators be granted "plenary" authority over the securities, commodities, and lending activities of a wide range of crypto companies. In a sharp rejoinder, HFSC Ranking Member McHenry (R-NC) [criticized](#) Mr. Gensler's attempted "power grab" over digital asset exchanges, a line sure to be echoed by Sen. Toomey (R-PA). However, Mr. Gensler makes clear that the SEC has taken and will continue to take its authorities "as far as they go."

Reiterating that additional authority is needed to prevent transactions, products, and platforms from "falling between regulatory cracks," Chair Gensler urged Congress to prioritize federal regulatory authorities over crypto trading, lending, and DeFi platforms. The reasons echo his [recent remarks](#), for example pointing to the potential for fraud. He also underscored that platforms offering crypto tokens or other products priced by the value of securities or that operate like securities derivatives are subject to securities law, with [SEC staff](#) now instructed to vigorously enforce cases in which the find investor risk, fraud, or other violations. DeFi platforms may also implicate commodities and banking laws, raising concerns about investor and consumer protection as well as the need to guard against illicit activity and ensure financial stability. Ahead of the PWG's [stablecoin recommendations](#), Mr. Gensler also warned that the use of stablecoins on crypto platforms may facilitate evasion of AML rules, taxes, and sanctions.

FFIEC Issues Major Access/Authentication Update

The FFIEC [today](#) issued guidance applicable to all of its member agencies detailing effective risk management principles and practices for access and authentication. Replacing guidance last updated a decade ago, the new guidance highlights significant risks associated with the cybersecurity threat landscape, saying these reinforce the need for effective authentication of users and customers. Authentication considerations now also extend beyond customers to include employees, third parties, and system-to-system communications. Risk management practices are now to support oversight of identification, authentication, and access solutions as part of the institution's information security programs, and periodic risk assessments should be conducted to inform management decisions. When these assessments find single-factor authentication with layered security is inadequate, multi-factor authentication should be implemented. Account activities should be monitored, logged, and reported in order to identify and track

unauthorized access, and institutions should implement controls for their email systems, Internet access, customer call centers, and internal IT help desks.

DOJ Not Only Endorses Debit-Routing NPR, Also Proposes Fed-Competition Policy Shift

In an unusual move, the Department of Justice today filed a [comment letter](#) supporting the Fed's controversial proposal to revise its interchange routing rules ([see FSM Report INTERCHANGE8](#)). The letter (which has not yet been released in full) supports merchant arguments that saving on debit-card costs will result in reduced consumer-good pricing. Indeed, the letter chastises the Fed on competition grounds, telling the Board it is responsible for ensuring compliance with the Sherman Act and that competition will increase via the market entry of smaller debit networks. Citing the President's new competition order ([see Client Report MERGER6](#)), DOJ also expresses its interest in working with the FRB on additional ways to increase financial-sector competition, clearly taking its work beyond the M&A scope expressly addressed in the President's directive. As we noted at the time, the Fed's independence insulates it from this order but its understanding of the current political environment will surely make it willing to work with Justice when it feels it can and should.

Further, while supporting the NPR, the Department of Justice also urges changes to it. Its announcement emphasizes drafting changes to ensure that all card-not-present transactions are covered and anti-evasion standards for "incumbents" are implemented.

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-081121](#): As we briefly noted [yesterday](#), the CFPB released a [report](#) assessing how the largest servicers handled borrowers over recent, chaotic months.
- [LIBOR6](#): The House Financial Services Committee has reported H.R. 4616, a bill designed to prevent the chaos feared when the use of the LIBOR benchmark ceases for legacy contracts that lack language authorizing reliance on an alternative, "fallback" rate.
- [GSE-080421](#): A new [Fed study](#) finds a significant mark-up in the cost of mortgages during the 2020 boom even though government guarantees secured continued mortgage supply for all but the lowest and highest ends of the housing market.
- [REFORM207](#): Today's Senate Banking hearing on bank supervision did not include FRB Vice Chairman Quarles, who came before the panel for withering criticism earlier this year (see Client Report REFORM206).
- [GSE-080221](#): Whatever befalls the Senate infrastructure bill, we believe its \$21 billion GSE pay-for is but one bit of a bigger de facto transformation of the GSEs.

- **[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.