



Monday, October 25, 2021

❑ NEW CONSUMER COP TAKES THE STAGE

Later this week, CFPB Director Chopra will appear before both the Senate Banking and House Financial Services Committees. Each will use the newly-confirmed director's debut as a platform on which to elicit promises for future action or oppose the same on each Member's priority concerns. Mr. Chopra may also use his testimony to chart a new course, expanding on initiatives launched by Acting Director Uejio and announcing new rules, policies, and enforcement program no acting official could set fully in motion. We'll of course provide clients with in-depth reports on Director Chopra's testimony and what Congress has to say about it. We'll be listening for:

- a great deal of discussion from both sides of the aisle on the Bureau's [bigtech assault](#). As Karen Petrou's forthcoming memo shows it could well change the bigtech financial-services construct as we know and many also fear it. Chairman Brown (D-OH) has also [called](#) on the CFPB to address fintech and will certainly be enthusiastic about this still more ambitious program. Ranking Member Toomey (R-PA) will doubtless demand the Bureau stay out of this arena;
- consumer data ownership, a top priority and related issue. The Bureau was expressly asked in President Biden executive order on competition ([see FSM Report MERGER6](#)) to look into this, moving beyond the ANPR ([see FSM Report DATA](#)) issued late last year;
- mortgage lending. HFSC Chairwoman Waters (D-CA) and many Democrats will press Mr. Chopra for more on the Justice Department's new plans to pursue [redlining at nonbank mortgage lenders](#), demanding fast action and lots more of it. They will also push hard for still more protection for mortgage borrowers who have received forbearance or face foreclosure and press the CFPB to use whatever authority it can claim also to protect renters from landlords;
- small business demographic reporting. Following repeated delays under Director Kraninger, the Bureau put out the Dodd-Frank required proposal last month ([see FSM Report SBA40](#)). While Democrats applauded its release, they will continue to push for more. As with fintech and bigtech, Republicans demand a CFPB retreat;
- Credit scoring. HFSC Democrats will take the lead, pressing the Bureau to regulate the consumer reporting data sector, most immediately through additional standards

protecting minority borrowers, and over time perhaps even by taking over the business through a public credit bureau;

- alternative data. Related to credit scoring is the push to rely on consumer data beyond that typically scored by the reporting agencies. Neither the banking agencies nor the Bureau have taken action on this front since their 2019 joint statement ([see FSM Report FCRA29](#)), but more is sure to come. HFSC's AI Task Force also [urged](#) further guidance clarifying regulatory standards on alternative data with specific regard to AI/ML; and
- bank mergers. While these would not normally be a CFPB concern, recent legislation ([see FSM Report MERGER8](#)) from Sen. Warren (D-MA) and Rep. García (D-IL) gives the CFPB an express role approving mergers. Members may ask if the Bureau wants this authority and what it would do with it if it got it.

Headlines From the Past Week's Daily Briefings

October 18

- **Quarles Takes FSB Victory Lap** - Speaking as he heads toward the end of his term as FSB chair, FRB Gov. Quarles applauded the FSB for all the work it did to ensure financial stability during the pandemic.
- **Fed Researchers Conclude U.S. Regulatory Perimeter More Permeable Than Ever** - A new Fed staff note builds on a major recent research paper to assess the U.S. regulatory perimeter.
- **BIS Advances CBDC, Payments Projects** - BIS Managing Director Carstens reinforced the benefits of ongoing global work to advance CBDCs, focusing in particular on the BIS Innovation Hub's recent project on CBDC cross-border settlement and the retail-facing construct endorsed last week by the G7.
- **OCC's Libor Assessment Addresses Benchmark Replacement** - The OCC provided national banks with an updated self-assessment tool to gauge their readiness for the end of LIBOR.
- **FHFA Revises Refi Standards, Continues Capital and Mission Rewrite** - Acting FHFA Director Thompson announced changes to the GSEs' refi-underwriting standards aimed at expanding access for low- and moderate-income households.

October 19

- **Global Central Bankers Tread Wary Path to Green Scenario Analysis** - The central-bank group focused on climate risk, the Network for Greening the Financial System (NGFS), [issued its latest assessment](#) of financial scenario-analytic approaches.
- **FRB-NY Analysis: BHC Exposure to Open-End MMFs Warrants Supervisory Attention** - A [new blog post](#) from the Federal Reserve Bank of New York tackles an

issue left hanging in the FSB's new MMF-reform options: the fire-sale risk posed by open-end funds.

October 20

- **Senate Dems Demand Facebook End Crypto Projects** - Five Senate Democrats including Banking Chairman Brown (D-OH) demanded that Facebook terminate its cryptocurrency (Diem) and digital wallet (Novi) projects, citing CEO Mark Zuckerberg's 2019 HFSC testimony pledging not to launch financial products such as these without U.S. regulatory approval.
- **Banking Agencies, CFPB Do What They Can to Accelerate LIBOR Transition** - The Federal banking agencies and the CFPB, NCUA, and state regulators issued guidance yet again emphasizing their LIBOR transition expectations.

October 21

- **BIS Advances Push for Central Bank Green Investment** - The BIS announced a new program channeling central-bank funds to green bonds in the Asia-Pacific region.
- **CFPB Plows New Path into Bigtech, Competition Policy** - With a newly-confirmed director with long experience battling bigtech, the CFPB issued orders requiring large tech companies operating payments systems to turn over information on their payments products, business plans, and practices.
- **Fed Hops to After Latest Ethics Revelation** - Following a still more embarrassing story about Fed trading in *New York Times*, the FRB announced conclusion of a "comprehensive review" and new senior-officer trading restrictions.
- **FSOC Adopts Tough-Talk, Cautious-Action Climate Plan** - FSOC approved the report on climate-related financial risk required by President Biden's Executive Order adopting the cautious, disclosure-focused framework we anticipated when the executive order was issued.

October 22

- **BIS Official Presses Climate Risk Go-Slow** - Fernando Restoy, head of the BIS's Financial Stability Institute, reinforced the complexities climate risk presents for financial regulation emphasized also in last night's FSOC report.
- **Agencies Announce Anti-Redlining Priorities, Target Nonbank Lenders** - In concert with a landmark anti-redlining enforcement action, the Department of Justice today announced a new anti-redlining initiative.
- **Senior Republicans Slam Postal-Banking Pilot, Postmaster General** - HFSC Ranking Member McHenry (R-NC) and Oversight Ranking Member Comer (R-KY) blasted USPS's [postal banking pilot](#), accusing the Postal Service of implementing the pilot "in secret" and without Congressional notification.

This Week

Tuesday, October 26

HFSC Subcommittee on Investor Protection, Entrepreneurship, and Capital Markets hearing entitled: "Taking Stock of 'China, Inc.': Examining Risks to Investors and the U.S. Posed by Foreign Issuers in U.S. Markets." [10:00am, 2128 Rayburn HOB] Witnesses: **Karen Sutter**, Specialist in Asian Trade and Finance, Congressional Research Service; **Samantha Ross**, Founder, AssuranceMark, The Investors' Consortium for Assurance; **Claire Chu**, Senior Analyst, RWR Advisory Group; and **Eric Lorber**, Senior Director of the Center on Economic and Financial Power, Foundation for Defense of Democracies.

Wednesday, October 27

HFSC hearing entitled: "Bringing Consumer Protection Back: A Semi-Annual Review of the Consumer Financial Protection Bureau." [10:00am, 2128 Rayburn HOB] Witness: The Honorable **Rohit Chopra**, Director, Consumer Financial Protection Bureau.

Thursday, October 28

Senate Banking hearing entitled "New Era for Consumer Protection: The Consumer Financial Protection Bureau's Semi-Annual Report to Congress." [10:00am, 538 Dirksen SOB] Witness: The Honorable **Rohit Chopra**, Director, Consumer Financial Protection Bureau.

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](#).

- **GREEN11**: As we [noted yesterday](#), the Financial Stability Oversight Council has now complied with President Biden's executive order ([see FSM Report GREEN8](#)), compiling an exhaustive [assessment](#) of the financial-stability implications of climate risk and what might best be done about it.
- **CBDC9**: Shortly after the BIS and a group of central banks endorsed a construct for retail-facing central-bank digital currency (CBDC), the Group of Seven (G7) finance ministerial issued these public-policy principles to establish a still broader framework for future action
- **SANCTION15**: Today's Senate Banking hearing with Treasury Deputy Secretary Wally Adeyemo showed bipartisan concern that the Administration is failing to implement sanctions required by law, especially when it comes to China, North Korea, and Russia.

- **MMF18**: Global regulators have now finalized a framework on which national regulators may base the reforms they deemed necessary after the pandemic sparked profound disruptions in this sector.
- **CRYPTO20**: Responding to requests from the G7, G20, and FSB, this report addresses market-infrastructure considerations related to systemically-important stablecoins that do not involve multi-currency baskets (e.g., Facebook's Diem).
- **GSE-101221**: Although the majority of FHA ARMs are now LIBOR-linked, HUD has been waiting for Congress, the Fed, or forces on high to help it set a new benchmark.
- **MERGER8**: Progressive Democrats in the House and Senate have introduced legislation demanding an array of new decision factors governing bank M&A transactions and new or even revised BHC activities.
- **INVESTOR19**: As [anticipated](#), today's HFSC hearing with SEC Chair Gensler covered the full SEC agenda, although members steered clear of the SEC investigation demanded by Sen. Warren (D-MA) into recent Fed trading.
- **CBDC8**: As we [noted](#) last week, the BIS and seven major central banks have advanced global CBDC policy with three new reports evaluating key design features.
- **GSE-093021a**: Now that we have FHFA's comment deadline – November 26 – we expand our [initial analysis](#) of FHFA's capital rewrite into a more detailed assessment of its strategic impact.
- **REFORM209**: In very sharp contrast to the Senate Banking session on Tuesday with Chairman Powell and Secretary Yellen ([see Client Report REFORM208](#)), today's HFSC session was largely devoted to partisan wrangling over monetary policy, the debt ceiling, and the Biden Administration's overall fiscal policy.
- **GSE-093021**: Late yesterday, Senate Banking Ranking Member Toomey sent letters [to Secretary Yellen](#) and FHFA [Acting Director Thompson](#) strongly protesting the [PSPA rewrite](#) and [pending capital proposal](#).
- **MERGER7**: In a wide-ranging hearing today, HFSC's Consumer Protection and Financial Institutions Subcommittee showed the extent to which Chairwoman Waters (D-CA) and progressive Democrats are wary of large-bank mergers.
- **REFORM208**: Although today's Senate Banking hearing with Chairman Powell and Secretary Yellen was largely taken up by the debt ceiling, Sen. Warren (D-MA) made it very clear that progressives will mount an aggressive campaign against Mr. Powell, calling him a "dangerous" man.
- **GSE-092421**: According to a group of Senate Democrats, the answer to this question for a new class of federally-backed mortgages is "out of debt."
- **GSE-092221**: Getting a bit ahead of FHFA's new [equitable-finance mandate and its express demand for appraisal equity](#), Freddie Mac has released a detailed [study](#) of one of the most significant barriers to housing-finance equity: discriminatory appraisal practices that reduce the chances for wealth accumulation.