



Monday, November 1, 2021

❑ A LIBOR CARROT?

Later this week, Senate Banking will finally hold a hearing on the LIBOR transition, giving both regulators and the market hope that it may take action on a companion to House legislation providing legal certainty for legacy contracts. As our in-depth analysis of that bill made clear ([see FSM Report LIBOR6](#)), the bill is a carefully-crafted, complex construct designed to reduce the uncertainties and litigation attendant to this tricky transformation of all outstanding contracts tied to LIBOR no matter its imminent end. We'll be monitoring this hearing not only due to the critical importance of a smooth LIBOR transition that reflects market realities, but also because the [hearing notice](#) suggests the Banking Committee has concerns above and apart from the systemic risk that troubled their House colleagues: consumer and investor protection. Depending on what Senate Democrats mean by this term, their bill could take a still tougher stand on any non-SOFR rate to which the Fed does not give its blessing not just for legacy contracts, but for those to come. In addition, we're tracking the latest pronouncements from regulators on benchmark transition, including:

- [tough talk](#) last week from Acting Comptroller Hsu outlining his agency's supervisory priorities;
- the [CFPB's decision](#) to take on LIBOR, an issue that also came up at last week's Congressional hearings. At HFSC ([see Client Report CONSUMER37](#)), Rep. Sherman (D-CA) indicated he continues to work with the Fed on revised legislative language, while [Senate Banking](#) didn't take up the question;
- the New York Fed's Senior Vice President reiterated [demands for quick action](#); and
- HUD's [recent ANPR](#) laying out early work on benchmark transition for both legacy and new loans.

Headlines From the Past Week's Daily Briefings

October 25

- **HFSC Targets China's Investor Risk** - Ahead of HFSC's Investor Protection Subcommittee hearing on China's risk to U.S. investors, the majority staff memo

Federal Financial Analytics, Inc.
2101 L Street, N.W. – Suite 300, Washington, D.C. 20037
Phone (202) 589-0880
E-mail: info@fedfin.com www.fedfin.com

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indicates that Members will discuss ongoing concerns not only with China, but perhaps other issuers, looking at draft legislation from Subcommittee Chairman Sherman (D-CA) to shorten by one year the time foreign companies are permitted to comply with PCAOB audits before delisting.

October 26

- **McWilliams Positions Herself as Crypto Liberal Among Agency Skeptics** - In remarks, FDIC Chair McWilliams provided an update on the inter-agency “crypto sprint.”
- **U.S. Adds Voice to Health/Finance G20 Construct** - The U.S. Treasury has now joined other G20 finance ministers in calling for a new forum coordinating health and finance policy.
- **Global Regulators Tackle Margining, CCP Resilience** - Advancing an FSB priority most recently emphasized in the Board’s forward-looking plan, the Basel Committee, IOSCO, and the Committee on Payment and Market Infrastructures invited comment on additional margining standards addressing problems identified in the March 2020 COVID crisis.
- **House Advances Open-Source Regulatory Data** - The House passed 400-19 the Financial Transparency Act (H.R. 2989), legislation reintroduced by Reps. Maloney (D-NY) and McHenry (R-NC) requiring the federal financial regulatory agencies to adopt data collection-and-distribution standards on format, searchability, and transparency.
- **OCC Stands Firm on LIBOR Transition, Supervisory Priorities** - In remarks generally focused on LIBOR transition, Acting Comptroller Hsu emphasized that the U.S. agencies fully intend to end LIBOR and “zombie LIBOR” as of year-end and that even banks that think themselves immune from transition risk are exposed to it.
- **HFSC Takes Up CFPB Rulemakings, Bigtech, Big Banks** - Ahead of its hearing with CFPB Director Chopra, HFSC’s majority staff memo indicates that Democrats plan to address recent CFPB rulemakings including those on mortgage servicing, the QM rule and GSE patch, small business lending disclosures, and LIBOR transition.
- **NGFS Prioritizes Climate Data Gaps, Inconsistent Methodologies** - Continuing the go-slow approach to sweeping climate-risk rules, the NGFS updated progress on implementation of its supervisory recommendations, urging supervisors quickly to address data gaps, the lack of harmonized methodologies and risk metrics, and insufficient internal capacity and resources.

October 27

- **Fed Seeks Views on Primary-Dealer Status for Spain** - Providing a sharp reminder of the limits of national treatment, the FRB sought comment on the treatment of U.S. sovereign-bond dealers in Spain prior to allowing a Spanish financial institution to become a primary dealer.

- **IOSCO Sets Tougher Resilience Standards** - IOSCO issued new outsourcing principles for the securities market, tightening them in the wake of the COVID crisis to reflect new operational-resilience concerns.
- **Fed Stands by LIBOR Hard Stop** - Building on Acting Comptroller Hsu's tough talk, FRB Senior Vice President Nathaniel Wuerffel reiterated that new inter-agency guidance sets a hard stop not only on new LIBOR exposures at year-end, but also on additional or longer exposures under an existing contract.
- **FTC Turns Data-Security Screws** - Continuing the Administration's campaign to govern nonbank financial companies, the FTC unanimously approved a new data-safeguards rule governing nonbank financial institutions.

October 28

- **Senate Democrats, Even Republicans Press Bigtech Consumer Protection** - Senate Banking's hearing with CFPB Director Chopra largely rehashed the issues raised yesterday in HFSC.
- **Buffers, NBF Resilience, GSIB Resolution Remain Top FSB Priorities** - The FSB's final report [today](#) on pandemic lessons largely reiterates what it has been saying since the pandemic started.

October 29

- **No news of note.**

This Week

Tuesday, November 2

HFSC Task Force on Financial Technology hearing entitled: "Buy Now, Pay More Later? Investigation Risks and Benefits of BNPL and Other Emerging Fintech Cash Flow Products." [10:00am, 2128 Rayburn HOB] Witnesses not yet available.

Wednesday, November 3

HFSC Subcommittee on Consumer Protection and Financial Institutions Subcommittee hearing entitled: "Cyber Threats, Consumer Data, and the Financial System." [10:00am, 2028 Rayburn HOB] Witnesses not yet available.

Thursday, November 4

HFSC Subcommittee on National Security, International Development and Monetary Policy hearing entitled: "From Timber to Tungsten: How the Exploitation of Natural Resources Funds Rogue Organizations and Regimes." [10:00am, 2128 Rayburn HOB] Witnesses not yet available.

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-102821](#)**: FHFA is [proposing](#) a new disclosure regime designed to bring Fannie and Freddie into the public marketplace in a fashion analogous to large U.S. banks.
- **[CONSUMER37](#)**: As anticipated, HFSC's hearing today with CFPB Director Chopra skidded over a wide range of policy issues.
- **[GSE-102721](#)**: After years of enforcement inactivity, the OCC has [issued a tough set of restrictions](#) against one of the increasingly few large mortgage servicers still willing to be a banks.
- **[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.