



Monday, December 20, 2021

❑ TRYING TO COME DOWN

As we [noted](#) on Friday, FSOC's last meeting of the year ended on a very cautionary note. Differing from the comforting tone in the Fed's last financial-stability assessment ([see Client Report SYSTEMIC92](#)), FSOC found systemic risk to be elevated even if banks and CCPs give them few qualms. As we noted, the open part of the meeting focused largely on high-priority issues, with the gist of FSOC's action plans detailed in its [annual report](#). We'll shortly provide clients with an in-depth analysis of this tome, which also provides extensive detail on the state of key financial sectors and risks that, while not yet systemic, are already worrisome. FSOC makes it clear that it plans to act either on its own or through its member agencies on:

- stablecoin, now not waiting for Congress to advance the regulatory agenda in the PWG report ([see Client Report CRYPTO21](#));
- MMFs, with the SEC already proposing a [sweeping regulatory rewrite](#) and more to come on open-end funds tracking the [BIS's recent analysis](#);
- climate-risk, with the FSOC not just setting up a new staff group, but also applauding the OCC's proposed statement of [risk-management principles](#); and
- NBFIs, with FSOC noting in particular the need to strengthen oversight of those involved in mortgage origination and servicing and calling for coordinated resolution-planning requirements for large and complex nonbank mortgage companies.

Headlines From the Past Week's Daily Briefings

December 13

- **FSB Assesses Bail-in Bonds** - The FSB issued an assessment of cross-border TLAC at GSIBs, setting no new global policy. Instead, the paper analyzes TLAC in individual jurisdictions and studies the extent to which bail-in bonds – a controversial capital buffer – may prove effective under stress.
- **BIS: PE, VC May Pose Systemic Risk** - With nonbank lending now growing faster than that at banks, we turn to another BIS policy-making paper.

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December 14

- **Thompson Takes the Prize** - As [we anticipated](#), President Biden [nominated](#) Acting FHFA Director Sandra Thompson to a full term.
- **RFI in Limbo, Substantive FDIC Decisions Up in Air** - Although fireworks were [anticipated](#) at the FDIC open meeting, Board members kept discussion regarding the [merger RFI](#) to procedure before moving into an executive session at which the matter was surely debated.
- **OCC Restores Prior CRA Framework Over Industry Objections** - Largely as [proposed](#), the OCC finalized its rule rescinding its controversial 2020 CRA rewrite ([see Client Report CRA28](#)) and reverting to the prior CRA framework.
- **FinCEN Slow Walks Structural AML/CFT Rewrite** - As required by law earlier this year ([see FSM Report AML133](#)), FinCEN [issued an RFI](#) seeking views on ways to enhance AML/CFT regulation.
- **IMF Demands Tough Rules for Stablecoin, Other E-Money** - A [new IMF blog post](#) calls for comprehensive standards akin to those Democrats demanded (see forthcoming alert) for electronic money such as stablecoins.
- **Banking Dems Green-Light PWG Stablecoin Recommendations** - Like Democrats at HFSC's hearing ([see Client Report CRYPTO23](#)), Senate Banking Democrats made it clear that they want banking and market regulators to proceed with stablecoin rules along lines contemplated in the PWG report ([see Client Report CRYPTO21](#)).

December 15

- **HFSC GOP Try to Restrain FDIC Democrats** - Squaring off in the partisan battle over FDIC [merger policy](#), [HFSC Republicans](#) have launched their own investigation into what they call the Democrats' "power grab."
- **Powell Commends MMF Proposal, Demurs on Crypto Risk** - As expected, Fed Chair Powell's press conference focused almost entirely on inflation.
- **Senate Dems Demand BNPL Standards** - Sen. Jack Reed (D-RI) was joined by Banking Chairman Brown (D-OH), Sen. Warren (D-MA), and other Committee Democrats in [calling on the CFPB](#) to regulate buy-now, pay-later (BNPL) products.
- **SEC Advances Controversial Swing-Pricing MMF Rewrite** - Acting on a major FSOC, Fed, and global worry, the SEC approved a multi-prong proposal realigning MMF liquidity standards and clarifying how MMFs can handle negative rates.

December 16

- **FHFA Constructs a GSE Stress-Capital buffer** - Building on its pending rewrite of GSE-[capital rules](#), FHFA [proposed](#) capital-planning requirements for Fannie Mae and Freddie Mac akin in many ways to those governing large banks.
- **Campaign Advances to Oust McWilliams** - Ramping up the [FDIC battle](#), Public Citizen [called](#) on President Biden to oust FDIC Chair McWilliams.
- **Democrats Demand BNPL Review, CFPB Obliges** - Acting quickly on Senate Democrats' [request](#), the CFPB [launched](#) an inquiry into buy now, pay later (BNPL) credit, requesting information from five BNPL credit providers on BNPL risks and benefits.
- **FSB Says Global NBFIs are Stable, Shrinking vs. Banks** - The FSB [released](#) its annual NBFi monitoring report, concluding somewhat puzzlingly that balance-sheet NBFi vulnerability measures appeared broadly stable comparing 2020 and 2019 despite the market volatility at the pandemic's outset and massive government intervention.
- **OCC Begins Climate-Risk Regulatory Build-Out** - As [promised](#), the OCC [issued](#) draft climate risk-management principles that, when finalized, would guide future agency action starting next year.

December 17

- **Partisan Battle to Have Lasting FDIC Impact** - HFSC Chairwoman Waters (D-CA) reiterated her opposition to FDIC Chair McWilliams' decision to quash the merger RFI circulated by FDIC Board Democrats ([see FSM Report MERGER9](#)), highlighting her recent letter to bank regulators calling for a moratorium on all bank mergers over \$100 billion and saying again that these threaten community banks, small businesses, and consumers.
- **FSOC: Systemic Risk Elevated, Much Work in Progress** - FSOC met to consider its annual stability report, which strikingly differs with the Fed's more sanguine view of systemic risk ([see Client Report SYSTEMIC92](#)).
- **DOJ Redefines M&A Outlook** - Even as partisan warfare continues over the Democratic merger RFI ([see FSM Report MERGER9](#)), the Department of Justice has irrevocably altered the M&A outlook by [reopening](#) its 2020 request for comment ([see Client Report MERGER5](#)).
- **GAO: Alternative Data's Potential Stymied by Risks, Uncertainties** - The GAO issued a report on the potential for alternative data to expand mortgage access for borrowers with minimal credit histories, concluding that current uncertainties and risks limit fair and effective use.

This Week

No meetings of note.

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-121721](#)**: As [noted](#) on Thursday, FHFA continues to tread carefully through the big-bank rulebook, adopting standards said to be like-kind that aren't quite so similar when it comes to critical details.
- **[MERGER9](#)**: Released in a highly-controversial fashion (see below) by two Democrats on the FDIC's board, this RFI posits the need for a significant review of mergers involving insured depository institutions (IDIs) due to many changes in the financial industry and, so it says, the lack of substantive competitive analysis over past decades even of the largest transactions.
- **[GSE-121521](#)**: Although there were signs [earlier this year](#) that the QRM risk-retention exemption might get a long-delayed overhaul, the agencies [yesterday](#) ducked any decisions.
- **[GSE-120921](#)**: On Tuesday, [HUD](#) and the [CFPB](#) opened the door to [special-purpose mortgage finance](#). Now, we expect FHFA to use this safe harbor to mandate express GSE equitable-finance programs and for banks to take much of what's left in all their commitments after George Floyd's murder and turn it into mortgage and other community-finance products.
- **[CRYPTO23](#)**: As [anticipated](#), today's HFSC hearing was a marathon session at which industry witnesses defended their business model, Republicans liked it fine, and Democrats worried about a wide array of policy challenges.
- **[COVEREDFUNDS3](#)**: The OCC is "clarifying," but also in many respects rescinding one aspect of controversial 2020 rules expanding the "covered funds" under which banks may make equity investments as provided by the Volcker Rule.
- **[GSE-120621](#)**: As we noted on [Friday](#), Senate Banking Ranking Member Toomey asked SEC Chairman Gary Gensler a trick question about GSE [obligations](#) at the very end of a lengthy letter focused principally on cryptography.
- **[GSE-120221](#)**: Two recent studies add fuel to the fire we first spotted [late last year](#): demands for ARMs that only go down.
- **[FEDERALRESERVE65](#)**: Continuing the partisan and often-acrimonious tone of the Senate Banking hearing ([see Client Report \[FEDERALRESERVE64\]\(#\)](#)), HFSC today heard from Chairman Powell and Secretary Yellen.
- **[CRYPTO22](#)**: Although the OCC joined other agencies issuing a non-committal "roadmap" for future cryptography actions, the agency at the same time and far more decisively stated that crypto activities are permissible only if they are also safe and sound.