



Tuesday, December 7, 2021

FBO Sanctions Update

Sens. Cotton (R-AR), Rubio (R-FL) and eleven GOP colleagues have introduced S. 3318, legislation pressing the U.S. to deny foreign financial institutions access to the U.S. financial system if they provide "Palestinian martyr" payments. The bill does not mandate this, instead specifying a sense of Congress resolution that Treasury do so. It lacks a House companion and faces uncertain prospects for enactment, but it is notable as a reminder of Congress' willingness to go beyond traditional sanctions to stifle foreign banks when transactions that may be legal outside the U.S. are conducted by parent or affiliate organizations. Clients are [reminded](#) that the U.S. decided when it last sanctioned Russia not to go quite this far; should Ukraine hostilities break out, we expect this to be a key U.S. response.

Chopra Slams "Banking Cartel" as CFPB Sets LIBOR Standards

The CFPB today [issued](#) its final LIBOR-transition rule, with Director Chopra's [accompanying statement](#) emphasizing that this rule will now prevent the "banking cartel" from again illegally setting disadvantageous consumer interest rates. This approach – not seen at other agencies – reinforces Mr. Chopra's [strong focus on competition](#), not just consumer protection. The rule itself tracks other agency action by banning LIBOR-based rates in new contracts after the end of 2021 and in legacy contracts after June of 2023. Although significant legal issues remain unresolved in Congress resolving these legacy contracts ([see Client Report LIBOR6](#)), the CFPB – again like other agencies – expects SOFR-based contracts to prevail in legacy agreements. The CFPB also requires creditors, servicers, and others under its authority to prepare for a smooth SOFR transition.

CFPB Accepting Additional Bigtech Inquiry Comments

The CFPB [today](#) reopened the comment period on its bigtech inquiry, now accepting comment until December 21. As we [noted](#) when the comment period opened, the Bureau then provided a very short comment window because Director Chopra said that the Bureau must move quickly due to the initiative's importance. Given this urgency, the extension is also short. This still gives the Bureau what it needs to proceed to the specific regulatory proposals we expect to follow this inquiry through 2022 and beyond.

Warren Readies Anti-Powell Attack

Sen. Warren (D-MA) today [released a letter](#) making it clear that she will strongly oppose Chairman Powell when his confirmation comes before the Senate Banking Committee. Her comments upon the nomination ([see Client Report REFORM208](#)) stated as much, but the letter indicates that Sen. Warren plans to make as much use as possible of allegations of overall improper trading by Fed officials as well as question Mr. Powell on his own activities. The letter demands an array of documents and criticizes Mr. Powell's transparency because a number of them were requested in prior Warren inquiries. A staff briefing is also requested. Suggesting also that the confirmation hearing will come before year-end, Sen. Warren demands answers by December 13.

FSB: Persistent Gaps Challenge Resolution Regimes

The FSB [today](#) updated progress on implementing its key attributes of effective resolution regimes, reporting significant advances at GSIBs despite gaps at smaller banks, insurance companies, and CCPs. While almost all GSIB home and key host jurisdictions have comprehensive regimes, several have yet to complete implementation. While the CPMI and IOSCO are [consulting](#) on key resilience challenges, CCP resilience remains problematic. Although the pandemic demonstrated the strength of crisis management groups, state

support for failing banks has continued and substantial fiscal support was provided, meaning that cross-border resolution frameworks were not tested. Progress on implementation of resolution reforms for insurers was mixed. Looking forward, innovation in digital finance may challenge current resolution regimes, with the report urging analysis of reliance on third-party service providers and the resolvability of non-traditional entities such as fintechs.

HFSC Dems: Investment Firms Must Increase Diversity

Ahead of a hearing Thursday sure to be critical of large financial companies, a new [HFSC majority staff report](#) on diversity and inclusion looks at large investment firms (including those owned by banks) and finds little progress. The report also finds that large bank and investment firms had similar demographic breakdowns, although investment firms had slightly greater Hispanic representation. Staff recommend new laws such as that pending in legislation requiring disclosure of diversity policies and practices (H.R. 2123) and mandating disclosure of self-identified racial, ethnic, and veteran status among company leadership (H.R. 1227). Several bills currently in draft form are also recommended, with these mandating gender and racial pay-equity audits, requiring that financial regulators also conduct pay-equity audits, requiring firm disclosure of any historical ties to slavery and steps taken to compensate for them, and mandating the consideration of at least one diverse asset manager when contracting services. A new proposal would also create a government program to support diversification at regulated firms. We will provide clients with an analysis of Thursday's hearing.

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](#).

- [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.
- [FEDERALRESERVE64](#): Most of the news at today's Senate Banking hearing revolves around Chairman Powell's concession that inflation may not be transitory and economic growth is now so robust that quantitative tightening might proceed more quickly than planned, pandemic permitting.

- **GSE-113021**: Unsurprisingly, [FHFA today raised](#) the GSEs' conforming loan limit to about \$647,000 and the high-cost limit to nearly \$1 million.
- **GSE-112421**: Because FHFA tends to take its cue from both the Basel Committee on Banking Supervision and its U.S. cousins, we here drill down to look at the housing-finance implications of the proposed global framework we assessed in a [recent in-depth report](#).
- **CLIMATE12**: Following the UN's COP26 climate-risk summit, the Basel Committee has proposed high-level principles guiding risk management and supervision related to both physical and transition climate risk.
- **REFORM210**: [As expected](#), today's hearing with Comptroller-nominee Saule Omarova included an unprecedented amount of fireworks for what is normally a low profile appointment.
- **FAIRLEND10**: The CFPB has followed a study earlier this year finding significant mortgage product and price discrepancies based on race or ethnicity with a request for input (RFI) on the HMDA data on which the study was based.
- **GSE-111721a**: FHFA's [new scoring system](#) for the GSEs and CSS is a startling, if unsurprising, mission rewrite.
- **GSE-111721**: As [noted](#) yesterday, the CFPB has opened its HMDA rules to a raft of changes
- **GSE-111521**: As we [noted on Wednesday](#), the CFPB highlighted Director Chopra's competition focus when it joined other agencies [renewing](#) their mortgage-servicing supervisory and enforcement standards.
- **GSE-111221**: As [Mark Calabria made clear earlier this year](#), reform of the Treasury market has direct, major impact on that for agency debt and MBS.
- **TMARKET2**: In this report, we build on [our initial analysis](#) of Monday's [report](#) from the Inter-Agency Working Group on Treasury Market Surveillance (IAWG).
- **SYSTEMIC92**: Late yesterday, the Federal Reserve [released](#) its most recent financial-stability report. As in its predecessor earlier this year ([see Client Report SYSTEMIC91](#)), this report takes a cautious view, counting on continuing bank resilience to counteract old worries, such as asset-price bubbles, along with containing at least some new fears.
- **CRYPTO21**: As [noted yesterday](#), the President's Working Group on Financial Markets (PWG) was joined by the OCC and FDIC yesterday issuing a report calling for prompt Congressional action to regulate stablecoins and, even in its absence, also for fast action by federal regulators and the FSOC.