



Wednesday, January 12, 2022

## Ag Committees Enter Crypto Fray

Flexing their jurisdictional muscle, the bipartisan leadership of the House and Senate Agriculture Committees [today sent a letter](#) to the CFTC urging it to govern cryptoassets which, they say, are commodities. Although the letter does not assert that this is always the case, it is nevertheless a slap in SEC Chairman Gensler's face that may not only complicate implanting his securities-based crypto construct, but also result in a more favorable regulatory landscape should the new CFTC concur. The letter is also a slap at HFSC and Senate Banking's jurisdiction as well as, less directly, their Democratic leadership's anti-crypto stand. The CFTC views cryptoassets as commodities and has exercised authority over cryptoassets when these involve futures or similar derivatives, and it could also take stronger action on fraud, as the letter also advocates. The CFTC has also taken action against DeFi trading venues, but the Ag leadership urges a still tougher approach. The letter also asks a series of questions about the new CFTC Chairman's views on this sector; no deadline is set for answers but a hearing in the near future seems likely.

## CFPB UPs the Ante for Its Anti-BNPL Inquiry

The CFPB today [broadened its market-monitoring demand](#) of buy-now-pay-later (BNPL) providers into a general request for public comment. Focusing in particular on consumers and international agencies, the Bureau seeks views on matters such as risks and benefits, merchant experience, and ways to improve the sector. The notice today sets no deadline for comments, saying it will soon be posted in the *Federal Register*. Unlike a market-monitoring exercise, anything approaching a broader request for input is a more sound platform from which quickly to launch the public-notice-and-comment period specifically required for federal rulemakings. As a result, the CFPB's seeming curiosity may well presage fast-page action curtailing BNPL products.

## Recent Files Available for Downloading

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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](http://www.fedfin.com) or clients may obtain the reports/analyses by e-mailing [info@fedfin.com](mailto:info@fedfin.com) giving the requested item name, firm, and e-mail address. To learn more about *GSE Activity Reports*, click [here](#).

- [REFORM211](#): As promised, FedFin begins our 2022 forecasts with this in-depth report on bank regulation.
- [FEDERALRESERVE77](#): As promised yesterday ([see Client Report FEDERALRESERVE66](#)), we listened closely today to gauge the extent to which Chairman Powell faces a serious challenge to reconfirmation.
- [FEDERALRESERVE66](#): Many of you have asked us to forecast key policy implications ahead of two high-powered hearings this week considering President Biden's top Fed nominees.
- [GREEN12](#): Issuing the first formal U.S. climate-risk proposal, the OCC is seeking comments on high-level risk-management principles to set the context for additional, more binding action governing larger U.S. banking organizations.
- [GSE-010322](#): New [economic commentary](#) from the Federal Reserve Bank of Cleveland assesses several recent studies on homeownership from an investment perspective.
- [MMF19](#): In the wake of noncommittal statements from global regulators on ways to address money-market fund systemic risk, the Securities and Exchange Commission has proposed sweeping changes

to the 2014 standards adopted after the 2008 crisis.

- **GSE-122721**: Late last week, the NCUA put a small addition into the Christmas stockings already stuffed by the regulator over the past few months with numerous regulatory liberalizations.
- **MERGER10**: Just days after the FDIC chair refused to advance a request for comment on bank-merger policy, the Department of Justice released one signaling agreement with many of the concerns Democrats aired in concert with the RFI.
- **GSE-122021**: As [noted](#) on Friday, the Biden Administration's first FSOC systemic-risk hit list reiterates Trump Administration fears about [nonbank mortgage companies](#).
- **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.
- **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.