



# *FedFin Daily Briefing*

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Monday, February 14, 2022

## **Gensler Stands by Climate-Risk Disclosures**

In a [Twitter thread](#) this weekend, SEC Chairman Gensler pushed back at Sen. Warren's (D-MA) [criticisms](#) that the Commission is moving too slowly on climate-risk disclosures. Reiterating statements also made to Senate Banking ([see Client Report INVESTOR18](#)), the Chairman emphasized the importance of these disclosures, as well as the need to ensure that they are consistent and include meaningful information, not just empty promises. The Commission continues to consider if these disclosures are appropriate in the 10-K or if they should be separate and what quantitative and qualitative information will be mandated. The tweets do not opine on the "materiality" question, which reportedly divides Democratic SEC commissioners on the extent to which firms will be asked to quantify their own climate footprint based in part on those with whom it does business. Timing is also left unsaid.

## **Renew Attack on ERISA Waivers**

Joined by Sen. Tina Smith (D-NH), Sen. Warren (D-MA) has [renewed](#) a longstanding Democratic demand that the Department of Labor deny ERISA waivers to large banks found to have engaged in illegal or unethical behavior. The case at issue now involves Credit Suisse due to what the senators describe as a "pending conviction" related to an \$850 million loan to a tuna-fishing company domiciled in Mozambique. The bank was previously given a five-year waiver after a 2014 conviction related to U.S. tax evasion. Failing to obtain these waivers has far-reaching strategic impacts on a bank's continued ability to conduct a wide range of trust and advisory services, leading DOL often to provide them despite continued Congressional push-back. It is unclear if this policy will continue in the Biden Administration given the president's new [anti-corruption executive order](#).

## **SEC Wins a Big One**

Making it clear that, despite GOP pushback, the SEC can and will go after crypto products, the [Commission today reached](#) a high-profile, multi-million dollar settlement with BlockFi Lending LLC that essentially prohibits its lending products and, by inference, any others unwilling to undergo protracted litigation leading to still more costly sanctions. The SEC's action was punitive, costing BlockFi not only \$50 million in a federal fine, but also forcing it to terminate its lending products and bring its operations into SEC-satisfactory compliance within sixty days. The firm is also paying \$50 million in additional penalties to 32 states that have filed similar actions, and its parent will now also register with the SEC. This may not quiet those who believe the SEC needs to promulgate crypto standards rather than engage in case-by-case enforcement of the securities laws as the Commission reads them. But its sweeping nature and BlockFi's decision to bow to it will likely nonetheless lead to significant sector realignment and increased regulation.

## **Hsu Targets Bank LMI Lending for CRA Push**

In remarks [today](#), Acting Comptroller Hsu stated that, while banks have done considerably better by LMI communities in recent years, deep gaps remain that, at least for Black households, may now be worse than ever. For example, Black mortgage denial disparity rates are now ten percentage points higher than they were in 2004, with fair and ample credit access disparities due to low branch density in majority-minority neighborhoods, a smaller local-bank role in mortgage lending, and less small-business growth. One part of the solution will come from new CRA rules which, Mr. Hsu argued, must ensure an increase in the absolute level of bank CRA activities in a structure tailored to an array of different business models and

communities. In particular, assessment areas need to be redrawn so that banks support LMI communities across their markets, not just in assessment areas. The long-awaited CRA rewrite will be out for comment in the "not too distant" future.

## 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](#).

- **[GSE-021022](#)**: Moving far ahead of the banking agencies [AI](#), FHFA [today](#) released a series of supervisory AI/ML standards for Fannie, Freddie, and CSS, perhaps leaving the FHLBs alone because none so far does much within this arena or nobody cared.
- **[GSE-020922](#)**: Continuing her very different vision of Fannie and Freddie, FHFA Acting Director Thompson [today](#) has released a new strategic plan for the agency emphasizing the importance of both equitable and sustainable housing finance.
- **[CRYPTO24](#)**: Today's HFSC hearing on stablecoins makes it clear that the bipartisan legislation Chairwoman Waters (D-CA) prefers is at best a long way off.
- **[FEDERALRESERVE69](#)**: As this report details, all three Fed nominees before the Senate Banking Committee today emphasized the vital importance of Fed independence and their anti-inflation zeal to quell GOP opposition and cement it among moderate Democrats.
- **[CONSUMER38](#)**: Taking action to advance President Biden's competition order, the CFPB is seeking views on fees which it believes exploit consumers by virtue of unfair competition.
- **[GSE-020122](#)**: Nothing could do as much damage to a business based on fee revenue as a determined CFPB inquiry into fee revenue.
- **[CBDC10](#)**: Months after initially promising to release a discussion draft on central bank digital currency (CBDC), the Federal Reserve is now seeking comment on whether and how it might create one.
- **[GSE-012422](#)**: A new Federal Reserve Bank of Atlanta [study](#) adds another element to those [prior research argues](#) are evidence of widespread racial discrimination in U.S. mortgage finance.
- **[GSE-011422](#)**: As noted in our in-depth analysis of Acting FHFA Director Thompson's confirmation hearing, it's clear that Democrats and Republicans are thinking hard about resurrecting statutory changes to the GSEs' charters.
- **[FEDERALRESERVE68](#)**: At today's confirmation hearing, Gov. Brainard took a lot of the heat on inflation Republicans only mildly mentioned during Mr. Powell's Tuesday confirmation hearing ([see Client Report FEDERALRESERVE67](#)).
- **[REFORM211](#)**: As promised, FedFin begins our 2022 forecasts with this in-depth report on bank regulation.
- **[FEDERALRESERVE67](#)**: 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.