



FedFin Weekly Alert

Monday, March 14, 2022

❑ A FULL-FORCE CRYPTO CRACKDOWN

Spurred in part by the critical role cryptocurrency is playing in the Ukraine crisis, the Biden Administration last week finalized a long awaited "whole-of-government policy construct ([see Client Report CRYPTO26](#)) with far-reaching, immediate implications not only for the Executive-Branch agencies that must now do as they are told, but also the more-or-less independent banking agencies that will try to make the White House as happy as possible. Touching on another key question -- who has payment-system access -- the Fed last week revised its 2021 proposal with a replacement request for comment ([see FSM Report PAYMENT24](#)) that now opines just a bit more on which companies will get the most scrutiny if they seek Reserve Bank master accounts and services. Key things to know include:

- **Over-Arching Policy:** One important implication of the President's executive order (EO) is that the Treasury Department is to issue a sweeping, near-term report on the definition of money and the future of the payment system. This report will surely be done in consultation with the Fed and with significant deference to the central bank's wishes, but it will be Treasury's view within the confines of the policy goals set for it in the EO.
- **CBDC:** Although the EO notes CBDC pros and cons, it's clear that the White House is going to have to be dissuaded by Treasury's reports or please from Chairman Powell if the U.S. is not to have a central bank digital currency closer in construct to the Fed Accounts some Democrats seek ([see Client Report CBDC6](#)) than the more neutral backstop the Fed appears to contemplate ([see FSM Report CBDC10](#)).
- **Global Policy:** A little-noticed implication of the White House edict is that the U.S. will no longer play ball with global agencies on crypto, CBDC, or payments policy unless the ball is on a field that favors America's odds. As Karen Petrou noted [last week](#), the dollar has already retaken the dominant position among all global currencies and payment systems in the course of the current crisis. Clearly, this is one the U.S. will not quickly cede.
- **The Future of the Fed:** As noted ([see Client Report FEDERALRESERVE69](#)), Sarah Bloom Raskin's nomination to serve as FRB supervisory vice chair has been clouded in part by controversy over Reserve Bank master-account access. As a [hearing last week with Chairman Powell](#), one Republican speculated that the Fed's payment-access revision was intended to resolve the question so her nomination could proceed;

Chairman Powell quickly rebutted the assertion and so matters rested. But, even if the Fed hoped to advance her cause, with this do-over our read of the revision suggests it does little to establish a clear, transparent, objective framework for this franchise-critical determination. And, even had it done so, it doesn't seem to have settled the question. Sen. Manchin's (D-WV) [indication last week](#) that he's on the fence will make it still harder for Chairman Brown (D-OH) to break down the GOP's blockade. No one is budging anytime soon in what we called a "[game of chicken](#)" just a few weeks ago, leaving a raft of critical Fed regulatory and M&A decision in limbo for the foreseeable future.

Headlines From the Past Week's Daily Briefings

March 7

- **Liang Reiterates Climate, Digital Worries** - Treasury Under-Secretary Liang's [comments to international bankers](#) addressed the U.S. financial-reform agenda after noting market turbulence and reiterating the importance and effectiveness of current Russian sanctions.
- **Mandatory Disclosures for Mandatory Arbitration?** - Ahead of a hearing, Senate Banking Chairman Brown (D-OH) [released a statement](#) on S. 3755, legislation cosponsored by senior Democrats on both the Banking and Judiciary Committees banning pre-dispute arbitration clauses and class-action waivers.
- **Hsu Emphasizes Sanctions Compliance, Climate, Inclusion** - Acting Comptroller Hsu [told](#) international bankers that they must ensure compliance with U.S. sanctions, heighten cybersecurity vigilance, and work together to protect continuing trust in cross-border finance.
- **FinCEN Sets Up Red Flags, High Alert** - FinCEN [issued sanctions "red flags"](#), assisting compliance, but also laying out clearer markers for enforcement should its concerns about cryptocurrency and other possible evasions remain at individual institutions or exchanges.
- **GOP Seeks to Widen Russian Financial Sanctions** - As Congress and the White House wrestle with additional ways to sanction Russia, senior House Republicans have advanced a package of bills which may well find at least some Democratic support.

March 8

- **Congress Prepares Gold-Related Sanctions vs. Russia** - Sens. Cornyn (R-TX), Hassan (D-NH), and bipartisan colleagues have added to the Congressional proposals to sanction Russia with S. 3771, legislation to impose secondary sanctions related to

American entities that knowingly engage in gold sales or transport involving the Russian central bank.

- **Mandatory-Arb Bill Gets Low-Priority, Partisan Reception** - As we [anticipated](#), Senate Banking hearing on mandatory arbitration in financial products was partisan and provided little in the way of an actionable agenda.
- **Energy Financing Now Under Sanctions Gun** - As anticipated, President Biden's [executive order](#) barring oil and related energy imports also extends the sanctions regime to financing, approving, guaranteeing or facilitating sanctioned imports and any energy-related investments.
- **FedFin Advisory: Commodity Risk Would Renew Political Challenge** - A key question we hear from large-bank investors is the extent to which the Ukraine crisis may lead to significant commodity-related losses at the largest U.S. banks due not only to their own exposures, but also to Archegos-like risk positions in these often-opaque markets.

March 9

- **President Presses Crypto, CBDC Buttons** - We will shortly provide clients with an in-depth analysis of President Biden's [executive order](#) setting the stage for substantive U.S. action across the digital-asset sector.
- **Long-Awaited LIBOR-Certainty Bill Set for Enactment** - Sen. John Tester (D-MN) [to ABA indicated](#) that the Senate version of House-passed LIBOR-transition legislation is in the omnibus spending bill set to pass by the end of this week in order to keep the government open.
- **CFPB Targets Employer Financial Products, Data** - The CFPB [detailed](#) its agenda following meetings on the extent to which U.S. workers are placed at financial risk by their employers.

March 10

- **Gensler Targets AI Conflict, Bias** - In remarks, SEC Chairman Gensler focused on one of his concerns with digital engagement: the ethical and sound use of artificial intelligence.
- **Targets Rural Banking Deserts, Farm Loans, Private Equity** - The CFPB added yet another issue to its target list: rural finance. Following roundtables similar to [those for workers](#), the [Bureau](#) has identified three issues that warrant close attention.

March 11

- **US, G7 Fragment Global Financial Construct to Sanction Russia** - Heightening sanctions to a still more unprecedented level, the President has issued a [new set](#) of Russian sanctions and the U.S., along with the rest of the G7, announced today that both the World Bank and IMF will be pressed to deny Russia borrowing privileges, which are rarely – if ever – denied for overtly political reasons.

This Week

Wednesday, March 16

HFSC Markup entitled: TBD [10:00am, 2128 RHOB] Matters to be discussed not yet available.

Thursday, March 17

Senate Banking Hearing entitled: “Understanding the Role of Digital Assets in Illicit Finance” [10:00am, Dirksen Senate Office Building 538]. Witnesses: Mr. Jonathan Levin, Co-Founder And Chief Strategy Officer, Chainalysis, Inc.

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](#).

- **[CRYPTO26](#)**: We follow our initial client alert here with an in-depth analysis of President Biden’s long-awaited [executive order](#) laying down steps intended quickly to construct a U.S. digital-asset policy construct.
- **[GSE-030722](#)**: A new Urban Institute study suggests that banks are more likely to discriminate when it comes to minority borrowers, heightening concerns at a time with increased political risk related to racial equity and mortgage finance.
- **[GSE-030122](#)**: As we noted late [last week](#), FHFA has finalized revisions to its [2020 capital rule](#) that most importantly lighten the GSEs’ capital load and reinvigorate credit risk transfer.
- **[GSE-022822](#)**: Responding to continuing FSOC complaints about [nonbank servicers](#), FHFA has proposed [new seller-servicer eligibility standards](#) that crack down hard on any nonbank servicer whose size evokes systemic qualms.
- **[SANCTION16](#)**: In this report, we address many of the questions we’ve received about U.S. policy in the wake of Russia’s invasion into Ukraine.
- **[GSE-022422](#)**: As noted late [yesterday](#), the CFPB has gotten a jump on FHFA and the banking agencies with the first step towards a long-delayed AVM rule demanded in the [Dodd-Frank Act](#).

- **[CRYPTO25](#)**: Despite fierce partisan fighting over pending Fed nominations, today's Senate Banking hearing on stablecoin regulation was considerably more bipartisan than last week's HFSC session ([see Client Report CRYPTO24](#)).
- **[GSE-021022](#)**: Moving far ahead of the banking agencies [Al](#), 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.