



# *FedFin Daily Briefing*

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Wednesday, March 16, 2022

## U.S. Merger Construct Clarity Delayed

The [DOJ](#) and [FTC](#) have extended the deadline for comment on the current U.S. antitrust construct. As we [noted](#), the agencies are seeking initial comment on questions addressing a wide array of new merger-analysis criteria that could sharply alter the manner in which both vertical and horizontal transactions are judged. The Department of Justice's request for views on bank mergers ([see FSM Report MERGER10](#)) remains outstanding even though its comment deadline closed on February 15. We do not expect DOJ to hold up most bank M&A while it considers how bank-merger criteria fit into this emerging framework for all transactions, but key points in the request for comment are likely to be deployed for larger or novel transactions. The new deadline for comment on the overall framework is April 21.

## Bureau Casts Wide, Sharp Net for Consumer-Finance Discrimination

Renewing his pledge to [stamp out financial discrimination](#), CFPB Director Chopra today [announced](#) a new enforcement policy based on a revised examination [manual](#). The new policy goes beyond ECOA to cover incidents in which, for example, a consumer is denied a checking account due to race, now assessing servicing, collection, consumer reporting, payment, remittances, and deposits in addition to all forms of consumer credit. Reflecting its junk-fee initiative ([see FSM Report CONSUMER38](#)), the Bureau is also looking at fees and service charges to ensure none of these discriminates against protected groups. Testing and governance will also be reviewed for compliance. In addition to its new manual, the Bureau today also released a [blog post](#) adding targeted advertising and marketing based on AI or other automated decision models to the set of activities under scrutiny, building on the Bureau's recent initiative on [automated valuation models](#). We will shortly provide clients with an in-depth assessment of the Bureau's new policy.

## Warren Demands Still More Antitrust Reform

Building on her campaigns against bank mergers ([see FSM Report MERGER8](#)) and more recent, broader competition concerns, Sen. Warren (D-MA) and Rep. Jones (D-NY) have introduced legislation barring large mergers in any sector and allowing the Department of Justice or FTC to break up companies without necessary resort to court order. M&A approvals involving remediation would be barred and the Supreme Court would lose its role in antitrust litigation. The bill would also codify the social-welfare and equality issues now being considered by these agencies as [merger criteria](#). The measure also reflects Sen. Warren's preference for the CFPB by giving it a new merger role and her campaign against private-equity firms, barring "roll-up" transactions. We do not expect it to advance in this Congress.

## OCC Opens Window to AML Regtech

The OCC has [finalized a rule](#) based on its [proposal](#) allowing exemptions to SAR filing requirements for national banks and federal thrifts whose AML-compliance programs satisfy a set of criteria designed to spur regtech without undermining compliance. The final rule clarifies a critical question by making it clear that the OCC can only grant an exemption if FinCEN concurs. The agency thus also notes that it plans to work with FinCEN and the other banking agencies to develop a uniform set of exemption authorizations, now providing only a single set of factors germane to the OCC rather than the more complex construct it originally proposed. The rule is effective on May 1.

## Fed-Nominee Voting Advances

Due to the Fed's monetary-policy shift, today's press conference after the FOMC meeting provided few insights into regulatory policy. Chairman Powell reiterated that he would like a full Board complement but the System is functioning fine without one. As anticipated [yesterday](#), Senate Banking Committee Chairman Brown (D-OH) has conceded to GOP opposition, scheduling a vote early this evening on Mr. Powell, Ms. Brainard, Ms. Cook, and Mr. Jefferson. We will provide clients with an assessment of next steps on the Senate floor thereafter.

## 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-031522](#): Although we have done extensive analysis of a U.S. central-bank digital currency (CBDC) in our sister analytical service, we have not viewed as it as an imminent strategic consideration for housing-finance agencies and financial institutions.
- [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.