



FedFin Daily Briefing

Tuesday, March 22, 2022

BIS Advances Cross-Border CBDC Settlement

The BIS [today](#) announced significant progress accelerating the ability of CBDCs to handle cross-border payments. Working with central banks in Australia, Singapore, Malaysia, and South Africa, the BIS described two prototype platforms for multi-currency international settlement that in their view prove that central banks can transact directly with each other using a shared platform. However, critical questions remain regarding which entities are allowed to hold and transact via this platform, ways to simplify transactions despite home-country regulation, and governance solutions allowing for data sharing. Additional work also remains testing prototype answers to these questions as well as enhance security and resilience. Feedback is invited on the results of this project without a deadline set for doing so.

ECB Head Criticizes Crypto, Calls for CBDC

Although we have not been able to confirm this by official remarks, press reports [today](#) indicate that ECB head Christine Lagarde has concluded that crypto-assets and -currency are significant factors in Russian-sanctions evasion. Crypto use was denied as recently as last week by industry advocates before a Senate Banking hearing ([see Client Report SANCTION17](#)), but senators – most notably Elizabeth Warren (D-MA) – were unpersuaded even as Republicans noted the need for targeted interventions to address sanctions evasion in the U.S. If Ms. Lagarde's views are shared by U.S. policy-makers, then emergency rulemakings from FinCEN and the banking agencies are likely in the immediate future. The ECB head [also](#) said that current events warrant rapid acceleration of the central bank's efforts to craft a digital Euro, noting that she believes other nations are now moving more quickly and certainly towards CBDC. As we noted, President Biden's executive order ([see Client Report CRYPTO26](#)) comes as close as possible to requiring the Federal Reserve to accelerate CBDC and even implement one in the U.S.

CFPB Attaches UDAAP Label to Product-Review Practices

Building on [FTC action](#), the CFPB today issued [guidance](#) stipulating that contractual-gag orders and certain other practices (e.g., employee or paid reviews) affecting the integrity of consumer reviews are illegal in credit-card, mortgage, or other consumer-finance marketing. The law on which this view is premised is a provision in the CFPB's authorizing statute providing enforcement power for unfair, deceptive, or abusive acts or practices (UDAAP). As our in-depth analysis earlier today made clear ([see FSM Report CONSUMER39](#)), the agency recently expanded the scope of UDAAP enforcement. While this is principally aimed at discriminatory practices, we noted in our assessment that the Bureau's instructions to examiners in many cases are applicable to any act or practice deemed problematic. It remains to be seen how many other activities there are to which the Bureau takes formal UDAAP exception, but we expect this to be an increasing agency practice given Director Chopra's approach to consumer finance. It is notable, however, that issuing standards with enforcement penalties that are not formal rulemakings may be sanctions by the General Accountability Office, a power that led federal agencies -- [including the Bureau](#) -- to stipulate that guidance will not have enforcement consequences. The consumer-review guidance notes that it is a "general statement of policy" under the Administrative Procedure Act that provides general information, including with regard to the Bureau's views without requiring additional record-keeping.

Treasury Lays out Digital-Asset Work Plan

In remarks [today](#), Treasury Under-Secretary Liang laid out her agency's plans to execute President Biden's digital-asset order ([see Client Report CRYPTO26](#)). Treasury's report on money and the payment system will address current weaknesses (e.g., high fees for low-balance accounts, slow and costly remittances), recognize the strength of FDIC insurance and other safeguards, build on FedNow, and establish a way for stablecoins to access the payment system. Ms. Liang also noted that the PWG remains committed to its

recommendation (see [Client Report CRYPTO21](#)) that stablecoin issuers should be depository institutions, noting now that this would allow the banking agencies to adjust the bank-only model over time as they gain familiarity with stablecoin risks. Her discussion of CBDC largely repeats the President's instructions to different agencies, including Treasury, to work quickly with the Fed to iron out current concerns, with CBDC introduction to address the challenges outlined in the Fed's discussion draft (see [FSM Report CBDC10](#)).

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](#).

- [GSE-032222](#): As detailed in our new in-depth [analysis](#), the CFPB's [exam-manual rewrite](#) dramatically redefines the compliance-, legal-, and reputational-risk terrain for any consumer-financial company and the vendors or counterparties on which it relies.
- [CONSUMER39](#): Reflecting one of its new director's top priorities as well as that of the Biden Administration, the Bureau of Consumer Financial Protection has significantly revised its examination manual when it comes to behavior that might be viewed as discriminatory in a wide range of consumer-financial products, services, underwriting, advertising, marketing, governance, and other arenas.
- [SANCTION17](#): The Senate Banking Committee's hearing today on illicit finance focused as expected on cryptocurrency and suggests that targeted legislation addressing specific jurisdiction or compliance issues might advance on a bipartisan basis.
- [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 [AI](#), FHFA [today](#) released a series of supervisory AI/ML standards for Fannie, Freddie, and GSEs, 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.