FedFin Daily Briefing

Friday, March 25, 2022

Fed Puts Off Finalizing New DIHC Framework

The FRB today extended the comment deadline on a longstanding proposal crafting a new regulatory framework for depository institution holding companies principally engaged in insurance services. As noted, the new approach would be tailored and administered in tandem with state insurance regulators with this new system reflecting, in some respects, the Board's equally longstanding effort to craft DIHC capital standards (see FSM Report **INSURANCE60**). The comment deadline now is May 5, 2022.

CFPB Wants to Hear More re Pricing Practices

Saying it has been swamped with consumer tales about "junk fees," the CFPB today extended the comment deadline until April 11 on its request for views on this hot topic. As we noted in our in-depth analysis (see FSM Report **CONSUMER38**), the Bureau posits that there is a "fair price" for the rates paid or charged and the fees required for the full panoply of consumer-finance products and services. This is in part founded on Director Chopra's view that large banks are behaving in an anti-competitive fashion to suppress deposit rates (see *Client Report* **CONSUMER37**), but the inquiry extends far more broadly. Although much of the junk-fee initiative appears to be targeted at the largest banks, its reach also to mortgage servicers and other nonbanks could have significant strategic consequences. As we noted earlier this week (see FSM Report **CONSUMER39**), the Bureau appears headed to a framework in which its new, sweeping enunciation of its UDAAP powers covers not only discrimination, but also other products and pricing considerations.

Bipartisan Crypto Construct Harder to Build than Describe

On a *Politico* webcast last night, Sens. Kirsten Gillibrand (D-NY) and Cynthia Lummis (R-WY) announced a bipartisan alliance to craft cryptoasset standards they expect to see on the Senate floor by year-end. We doubt that this ambitious schedule is possible, especially given that the panel wishes to address matters not only under the jurisdiction of the Senate Banking Committee – whose chairman has very different views on key topics – but also because provisions clarifying the CFTC's spot-market power would need to go before Senate Agriculture, taking more time. Although these two senators have significant power to design an initiative with political credibility, the preliminary nature of several of their ideas suggests that it may take them longer than the "few weeks" they described to finalize even a fact sheet.

For example, Sen. Gillibrand suggested some sort of commission to address the fast-changing nature of digital assets but who would be on it and what it would do vis-à-vis existing regulators was left unclear. Sen. Gillibrand also stated that the proposal would be placed in the context established by President Biden's executive order, where concerns on issues such as environmental impact, inclusion, and prudential constraints may prove problematic for the GOP.

Waller Still Wants Little to Do with a CBDC

At a feisty panel today, FRB Gov. Chris Waller stood by his view that a CBDC is "a solution in search of a problem." Despite the concerns laid out in the President's executive order (see *Client Report* **CRYPTO 26**), Mr. Waller does not agree that a failure to implement CDBC undermines the dollar's value as a reserve currency, although he does believe, regardless of timing, that a dollar denominated CDBC would weaken almost every other currency. This concern is shared by the BIS (see *Client Report* **CBDC8**), although it believes that appropriate CBDC design would mitigate this risk. Mr. Waller also fears that CBDC would unduly "amplify" monetary policy; again, the BIS acknowledges this but counters that design will also counteract this concern. Speaking on this panel for the BIS, Economic Adviser and Head of Research Hyun-Song Shin argued that CBDC is necessary to "future-proof" the global financial system, citing also recent success in cross-border settlement trials.

Senate Democrats Demand Overdraft-Fee Fix

Sen. Rev. Warnock (D-GA) and Chairman Brown (D-OH) joined other Democrats demanding lower or eliminated overdraft fees. In a series of substantively identical letters to the CEOs of Charles Schwab, JPMorgan Chase, PNC, TD Group, Truist Financial, U.S. Bancorp, and Wells Fargo, the Senators advocated for significant reform to overdraft practices, focusing on the effect fees have on working families. The letters were co-signed by Senators Cory Booker (D-NJ), Jack Reed (D-RI), and Chris Van Hollen (D-MD). They come ahead of the HFSC overdraft hearings next week at which committee Democrats will surely raise similar issues to pressure hold-out banks via threat of action on long-stalled overdraft-reform legislation. We will monitor this hearing and analyze its likely impact thereafter.

FDIC Starts Process of Revising Bank-Merger Policy

The FDIC today has officially released the bank-merger RFI that now-Acting Chairman Gruenberg and CFPB Director Chopra sought to release under Chair Jelena McWilliams. Ultimately, the furor drove Ms. McWilliams to resign before her term expired and the agency has now published the original RFI (see *Client Report* **MERGER9**) with only minor changes other than a sixty-day comment deadline following Federal Register publication. As we noted late last year, the RFI assumes that many aspects of larger bank mergers have adverse competition, safety-and-soundness, or consumer effects, echoing many of the concerns also voiced in President Biden's competition order (see *Client Report* **MERGER6**). The Department of Justice has also sought comment on bank mergers (see *Client Report* **MERGER10**) applauding the FDIC's views in concert with suggesting a new, more restrictive policy on larger transactions. DoJ and the FTC have also sought views on a new approach to all horizontal and vertical mergers that, among other things, incorporates qualitative considerations such as the systemic risk also highlighted in the FDIC's RFI. The FRB has yet to release its promised merger policy, with Chairman Powell indicating that – despite action by other agencies – it will proceed under current law which has clearly led the Fed so far to approve several, but far from all, of the transactions now awaiting approval.

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 that 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 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.

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