



FedFin Daily Briefing

Wednesday, March 30, 2022

Overdraft Hearing Sure to Raise Fee, Inclusion Concerns

Although the HFSC [memo](#) on tomorrow's overdraft hearing tees up legislation for possible action, we expect the Consumer Protection Subcommittee hearing to be a rhetorical exercise pressuring banks which still charge what Democrats, as well as Acting Comptroller [Hsu](#) and CFPB director [Chopra](#), view as punitive fees. However, the session is also likely to be a hearing on the CFPB's overall "junk-fee" initiative ([see FSM Report CONSUMER38](#)) as well as on financial inclusion, also considering draft legislation to require large banks and encourage smaller ones to offer at least one account analogous to the "Bank On" products that many banks [now offer](#). No government officials are scheduled to testify; FedFin will provide a report on the session ASAP tomorrow morning.

FDIC Joins Campaign for Climate-Risk Management Standards

The FDIC [today](#) issued a request for comment on climate-risk management similar in many respects to the OCC's outstanding release ([see FSM Report GREEN12](#)). Issued without a formal board vote, doubtless due to the ability of Messrs. Gruenberg, Hsu, and Chopra to agree on this priority in the absence of former Chair McWilliams, the request tracks the OCC in terms of questions on which comment is solicited, although wording in some cases may vary. It thus echoes the OCC's focus, not only on climate risk to a banking organization, but also the communities it serves and resulting environmental-justice considerations. The FDIC's introduction is different than the OCC's in terms of how risks are described and detailed, but we see no significant substantive alterations. Comment on the FDIC request is due within sixty days of publication in the *Federal Register*. The FRB has yet to release comparable request or one of its own, with Chairman Powell instead indicating that he hopes at some point to move in that "direction" ([see Client Report FEDERALRESERVE63](#)).

Senators Urge Treasury, SEC to Close Private Investment Sanctions Gap

Sens. Warren (D-MA) and Whitehouse (D-RI) today asked in a [letter](#) to Treasury and the SEC to accelerate closing the AML/CFT gap posed by private investment firms. Citing the risk of sanctions evasion, they urge both agencies to use what the senators described as existing statutory authorities to require that investment advisors disclose greater information regarding Russian oligarchs. Specifically, the letter asks that Treasury issue robust AML/CFT and SAR programs covering investment advisors and unregistered investment companies and that the SEC require investment advisors to conduct risk-based due diligence and report suspicious activity. The Senators asked for an explanation and subsequent briefing on how the agencies plan to start the rulemaking process by April 12. We would expect Secretary Yellen to be grilled on this and many other sanctions-evasion issues when she testifies next week before HFSC; a detailed client report will follow.

CFPB Revs Up Democratic Overdraft Anger

Ahead of tomorrow's overdraft hearing, the CFPB [today](#) put out a strong blog post saying that, while some banks have properly addressed consumer risk, many have yet to do so. The agency also asserts that overdraft fees can quickly become excessive, be confusing, and exploit payment timing. The blog post claims that overdraft fees add to the pressures that lead customers to close bank accounts and becoming unbanked at great cost to household and community wealth. Despite these forceful assertions, the Bureau did not announce any specific initiatives, saying only that it plans to "explore" next steps in conjunction with its work on undue fees that it believes take advantage of vulnerable consumers ([see FSM Report CONSUMER38](#)).

Senate Dems Demand More Small-Business Lending

Senate Banking Committee Chairman Brown (D-OH), Majority Whip Durbin (D-IL), and eight other Democrats today [wrote](#) to all the banking agencies demanding that they do something to ensure that banks lend more to small businesses. Citing a Fed study that found that less than one-third of small businesses that applied for traditional financing in 2021 received all the funding they sought, the letter states that banks have chosen to lend to bigger firms at the expense of small businesses, with corresponding disparities in lending to racial minority-, women-, and veteran-owned businesses. The Senators do not, however, specify any actions they wish the agencies to take to remedy these deficiencies, stating only that they “urge the banking agencies to work with banks and credit unions to encourage more lending to small businesses in a safe and sound way.”

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](#).

- [DEFI](#): As [promised](#), this report provides an in-depth analysis of IOSCO's new [paper](#) on decentralized finance, one sure to advance the [FSB's](#) efforts to bring DeFi systems under greater regulatory scrutiny due to the findings we here detail.
- [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 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.