



FedFin Daily Briefing

Monday, April 4, 2022

FDIC Climate-Risk Principles Set for Public Comment

Today's *Federal Register* includes the final [text](#) of the FDIC's request for public comment on climate-risk management principles. As we noted last [week](#), the request echoes the OCC's proposal ([see FSM Report GREEN12](#)), which focuses not only on climate risk to a banking organization, but also on 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. The comment deadline now is June 3.

FRB-NY Reasserts that Disasters Don't Damage Bank Resilience

The Federal Reserve Bank of New York today [released](#) a blog post on its earlier staff paper finding that weather events triggering federal disaster declaration did not pose significant risk to bank resiliency, even for the most damaging of disasters. As we noted in [our analysis](#) of the study, the paper also found that loan losses and charge-offs tended not to increase after disasters because loan demand increases offset exposure. The blog post also echoed the earlier paper's findings that small banks have actually improved disaster relief by reallocating credit to areas that FEMA had not identified as at risk due to the bank's local knowledge base.

GOP Demands Disclosure, Not Rules, Govern Stablecoins

Republicans last week outlined their preferred, disclosure-based approach to stablecoin regulation, a sharp contrast to the PWG's recommendations ([see Client Report CRYPTO21](#)) calling for new chartering restrictions. Measures introduced in the Senate (S. 3790) by Sen. Hagerty (R-TN) and House (H.R. 7328) from Rep. Hollingsworth (R-IN) would go beyond disclosure also to limit stablecoin reserve assets to either short-term Treasuries or dollars. However, the bill would only cover stablecoins that designate themselves as fiat-currency products. The users of these stablecoins would know the extent to which this is done via only disclosures, not by any rules to ensure what is said is also done. Auditors would review stablecoin reserves, but it is not clear if disclosures would include auditor reports. The bill does stipulate that stablecoin reserves be fully collateralized, but nothing would appear to limit rehypothecation.

HFSC Presses Financial Industry for Reparations

The HFSC [memo](#) today on tomorrow's hearing about the need for reparations from the financial-services industry indicates that the Oversight Subcommittee will focus on the extent to which banks provided financing for slavery, allowed for enslaved persons to be used as collateral, and how insurers covered enslaved people's work or sales value. Because the institutions that engaged in these and related practices often exist today in one form or another, the memo suggests that surviving entities should be required to compensate or otherwise atone to Black American descendants and their communities. The panel has no legislative authority, but the session is in the context of draft legislation requiring public racial-equity audits that, should inequity be determined, lead the company to provide down payment assistance or other financial support to affected persons. Treasury has already established a Counselor for Racial Equity, but her work plans remain uncertain; to date, the Counselor has only made [speeches](#) discussing the Administration's broad economic agenda. We will provide clients with an analysis of the hearing.

Nonbank Small-Business Lenders Face Possible CFPB Sanction

House Small business Chair Velasquez (D-NY) has introduced H.R. 7351 to force nonbank small-business lenders into the CFPB's efforts to identify patterns of racial, ethnic, or gender bias via ECOA

disclosures. This would bring smaller fintechs under the ECOA reports that the Bureau has proposed, requiring from them demographic data on denials, credit availability, and pricing and other data that seeks to identify terms and conditions ([see FSM Report FAIRLEND10](#)). The Velasquez bill would give the Bureau discretion as to which nonbanks to target based on factors such as size and the extent of state regulation. The measure comes under HFSC – not Small Business – jurisdiction and is likely to advance if Chairwoman Waters (D-CA) includes it in her action priorities. Its fate in the Senate, though, is most uncertain.

CFPB Demands Lenders Give Consumers Data in Servicing, Other Disputes

Building on its mortgage servicing [initiatives](#), the CFPB [today](#) not only filed an amicus brief in a case against Wells Fargo, but also reiterated that banks must participate in "relationship banking" and respond promptly and specifically to consumer inquiries. Director Chopra has emphasized "relationship banking" in [prior comments](#) about the need for fair competition, but it has not previously become a criterion in policy judgments, such as those involved here in siding with plaintiffs. In this case, the bank is said to have repudiated borrower questions on grounds that their homes were in foreclosure proceedings, but the Bureau says that this, as well as many other failures to answer consumer inquiries, does not obviate the statutory duty of banks to give consumers data on them that may be in the bank's possession. This principle could have broad applicability to many other disputes should the Bureau apply it as broadly as today's statement suggests it may.

Gensler Stays Tough on Crypto Platforms, Coins, Tokens

Noting that Superbowl ads have often presaged consumer-finance disasters, SEC Chairman Gensler [today](#) said that the cryptoassets hype may pose significant consumer and investor risk. Reiterating the "same-product, same-rule" framework established in the President's executive order ([see Client Report CRYPTO26](#)), Mr. Gensler reiterated that the Commission will use its enforcement powers as necessary to protect investors, for example, requiring exchanges to register even when exchanges facilitate trading in crypto commodities tokens, as well as those pertaining to securities. The Commission is also looking at conflicts of interest when platforms not only facilitate trading, but also provide custody services or issue stablecoins. The Chairman also reiterated Treasury concerns about illicit finance and the Commission's longstanding view that most crypto tokens are securities.

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.