



# *FedFin Daily Briefing*

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Tuesday, May 17, 2022

## Chopra's Call for FDIC Insurance Revocation Gains Strength

Although Republican Members of Congress [last week](#) sharply criticized Rohit Chopra's suggestion that FDIC coverage be denied banks that violate consumer-protection standards, the proposal has picked up [support](#) among at least some Democratic state legislators. Writing to the FDIC board – which of course includes Mr. Chopra – the legislators ask that this be done for any IDI that supports lending that violates the state's usury ceiling – i.e., several of the bank/fintech arrangements FDIC Acting Chairman Gruenberg has castigated as "rent a banks." The FDIC has of yet taken no stand on Mr. Chopra's call for revoking FDIC insurance in cases where a bank is a ["repeat offender"](#), with this case raising even thornier issues because the violation is at a nonbank working with the IDI, not the bank itself. Still, we think the FDIC under its current leadership will be sympathetic to this request especially if it is echoed in other states. Should its legal analysis suggest authority to revoke an IDI's deposit-insurance charter on grounds of partnership violations, a significant policy change affecting fintech franchise value would clearly ensue.

## FDIC Advertising Rule Sets New Course for CFPB Fintech Enforcement

The FDIC today finalized its proposal ([see FSM Report DEPOSITINSURANCE112](#)) to increase the penalties when advertising or other actions mislead consumers as to the extent to which FDIC insurance covers deposits or deposit-like placements. Most notably, the final rule now expressly allows other enforcers to act when consumers may be misled, a move clearly sought by Director Chopra, who announced [today](#) that the agency is quickly putting to work its new [policy](#) using circulars to establish enforcement standards. One [issued today](#) lays out the grounds on which the Bureau will pursue nonbanks in any such cases, actions that will also need to rest on the CFPB's claims of authority over fintechs in another recent administrative action ([see FSM Report CONSUMER41](#)). The final rule is not otherwise substantively different than the proposal, with Acting Chairman Gruenberg reinforcing Mr. Chopra's concerns without validating the director's comments also that the FDIC can revoke an IDI's charter related to repeat consumer-protection offenses. Acting Comptroller Hsu joined Mr. Chopra in emphasizing the need for consumers to understand the risks that they take with crypto assets.

## SEC Turns to Systemic Standards

In [remarks](#) today, SEC Chairman Gensler expanded his campaign against market concentration related to payment-for-order flow to a broader set of systemic-risk concerns due to increased concentration of key securities-market infrastructure activities in a small number of very large firms. The chairman has thus asked staff to look at ways to enhance competition, going beyond ongoing work on market-making also to target investment management. The talk provides no clue as to the remedies the Commission might explore nor how this fits into broader Biden Administration competition policy ([see Client Report MERGER9](#)), but the SEC does have the power via Dodd-Frank to impose prudential rules such as GSIB surcharges on any systemically-designated financial-market utility within its jurisdiction or to act on FSOC

recommendations for additional regulation across an activity or practice. Mr. Gensler also reiterates his concerns over digital-engagement practices ([see Client Report INVESTOR19](#)), reaffirming that the Commission is looking at conflicts of interest and bias.

## Hsu Sounds Alarm re Risk Concentrations, Consumer Fragility

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### 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](#).

- [CRA32](#): Following much talk about the need to update Community Reinvestment Act (CRA) rules since this was last done in 1995, federal banking agencies have finally agreed on a proposed redesign of standards essential to banks that wish to expand or acquire as well as those seeking strong community ties and the policy and political benefit these afford.
- [GSE-051622](#): As we [noted](#) last week, the federal banking agencies sighed a mighty sigh and heaved up a massive inter-agency [proposal](#) rewriting decades-old standards detailing which activities earn the Community Reinvestment Act (CRA) points essential for any bank's strategic objectives and national reputation.
- [FSOC27](#): With stablecoin markets even more distressed than earlier in the week, today's HFSC hearing with Secretary Yellen was even more emphatic than senators two days before on the need for action ([see Client Report FSOC26](#)).
- [FSOC26](#): Today's Senate Banking Committee hearing with Secretary Yellen renewed calls for federal legislation based on recent algo-coin losses and resulting digital-currency market volatility.
- [SYSTEMIC93](#): In this report, we assess the new Federal Reserve financial-stability [report](#).
- [CRA31](#): The FDIC today led the way with release of a long-awaited inter-agency [proposal](#) updating decades-old CRA regulation.

- **[CLIMATE13](#)**: The FSB's report is aimed at establishing global standards that prevent fragmentation along national or regional lines as well as ensuring that regulatory and supervisory actions mitigate climate risk to the greatest extent possible in the face of an array of data and measurement challenges.
- **[INTERCHANGE9](#)**: As anticipated, bankers and card networks squared off with merchants at today's Senate Judiciary hearing addressing credit-card interchange fees.
- **[GSE-042822](#)**: In this note, we expand on our analysis of the CFPB's new campaign against [nonbank financial institutions](#) to look more deeply at its impact on residential-mortgage finance.
- **[CONSUMER42](#)**: Today's HFSC hearing with CFPB Director Chopra plowed much ground broken yesterday before the Senate Banking Committee ([see Client Report CONSUMER40](#)), but several new furrows were also unearthed.
- **[CONSUMER41](#)**: Using what it describes as "dormant" authority, the CFPB is seeking comment on a rule setting the procedures under which it expands its authority to nonbank financial companies it believes pose consumer-protection risk.
- **[CONSUMER40](#)**: The Senate Banking Committee's hearing today with CFPB Director Chopra was a sharply partisan session with little immediate impact on what Mr. Chopra plans to do to achieve his sweeping new vision.
- **[GSE-042122](#)**: In our last CRT [analysis](#), we looked at transaction viability under the Basel IV rewrite set for rapid release once key Fed nominees are finally confirmed.
- **[GSE-042022](#)**: As we noted [yesterday](#), the IMF's financial-stability [report](#) includes a searing assessment of fintech risk.