



FedFin Daily Briefing

Friday, June 3, 2022

Agency Heads Stress Need for CRA Reform

Acting Comptroller Hsu, Fed Vice Chair Brainard, and Acting FDIC Chairman Gruenberg today took questions on the controversial, far-reaching inter-agency CRA regulatory rewrite ([see FSM Report CRA32](#)). All emphasized the importance of proceeding with this collaborative process and stressed the importance of establishing a new framework that recognizes radical changes in bank-service delivery over the past decades. Mr. Hsu was particularly emphatic about the importance of addressing disaster resilience, not just recovery, in the CRA construct, stating that this is an issue of particular concern to the community groups with which he speaks. Mr. Gruenberg emphasized the proposal's coverage of deposit services, noting that this will enhance community development and create strong incentives to eliminate overdraft and other fee obstacles to LMI banking. Regulators also said that they expect the new approach to make significant differences in actual community development, noting that breaking out low from moderate-income households enhances accountability for under-served communities. Vice Chair Brainard also emphasized the importance of recognizing branch openings and operation because of the importance of relationship banking to small businesses even in an era of digital and online banking. All of the agency heads believe the proposal strikes the right balance in terms of burden, especially for smaller banks. Coincidentally, the NPR is published in today's [Federal Register](#), retaining the proposed August 5 comment deadline.

FRB-Cleveland Study: Small-Business Lending Continues Race/Ethnic Disparities

A new [paper](#) published by the Federal Reserve Bank of Cleveland finds evidence that race-based lending disparities persisted through the pandemic, concluding that Black business owners in particular struggled to receive loans compared to whites, fintechs have not overcome credit disparities, and minority-owned businesses were less likely to receive the PPP amounts for which they applied. Notably, denial rates from traditional offline lenders were found to be higher for Blacks, Hispanics, and Asians compared to online lenders, with this especially true for Blacks and Hispanics. The paper's findings are significant for CRA reform ([see FSM Report CRA32](#)). Reviewing geographic credit models, the authors find that CRA-focus areas and racially concentrated geographies fail to predict loan-denial rates. Instead, the race of the business owner is most predictive, with the highest probability of credit denial existing for Blacks and Hispanics. The authors recommend that addressing credit needs for minority-owned businesses might thus require more specialized interventions in both national and local lending markets, but do not go into detail about what these might look like.

Building on findings from a literature review that fintech has widened credit access for US small businesses and reaches more minority-owned firms, the paper draws from Small Business Credit Survey data derived from thousands of firms, finding that borrowing outcomes varied by the race of owner both prior to and through the pandemic. Between 2016 and 2019, 34.5% of Black business owners were "discouraged" (describing business owners who did not apply for loans due to denial expectations) when applying for financing compared to 12.8% of white business owners, with similar data reflected for 2020. Financing denial rates were correspondingly higher for whites and lower for Blacks both pre-pandemic and during 2020, with approval rates dropping for both demographics during 2020 but more so for Black owners. Survey data also highlight race-based

disparities in business age, profitability, and credit score risk, with black businesses achieving significantly lower profitability percentages and being more likely to be classified for high credit risk. The paper does not address the extent to which these credit-risk factors may be discriminatory in some way or if they might account for some of the disparities noted above.

Waller Seeks Balance in Crypto Rules

FRB Gov. Waller [today](#) described the advantages of innovative, unregulated markets such as that created by cryptography at its outset. However, pointing to the kinds of investor risk highlighted in a new study showing how many Black investors trust [cryptography](#), Mr. Waller argues for rules to protect vulnerable households. However, Mr. Waller also argues that these rules must strike a balance to protect innovation, failing to provide any suggestions about how best to do so.

FinCEN Takes Baby Step to No-Action Letters

Reflecting demands from Congress in recent AML law ([see FSM Report AML133](#)), FinCEN [today](#) issued an advance notice of proposed rulemaking outlining how a no-action letter process might work. The agency is clearly taking only a tentative step in the direction of providing greater regulatory clarity in an arena rife with legal and reputational risk. The proposal lays out how this no-action letter process would work and seeks views on the extent to which it would encourage innovation or create one-off loopholes with adverse enforcement or market effect. Comments are due by August 5, following which FinCEN would need to issue a proposed and then a final rule to provide a regulatory-clearance process long sought by many financial institutions.

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-060222](#): Following on the heels of new [capital disclosures](#), FHFA has [finalized](#) a planning process designed to ensure that GSEs have something good to say when they post these reports, reassuring markets and perhaps even speeding the way out of conservatorship.
- [GSE-060122](#): As detailed in our [new in-depth report](#), the CFPB has issued another sweeping rule by way of a seemingly innocuous circular not subject to public notice and comment.
- [FAIRLEND11](#): Continuing its use of novel rulings that preclude public notice and comment, the CFPB has issued a landmark ruling on artificial intelligence (AI) and other forms of algorithmic underwriting stipulating lender responsibility for sending out the adverse action notices required under the Equal Credit Opportunity Act (ECOA).
- [GSE-052722](#): FHFA has [finalized](#) its October [proposal](#) to create a new qualitative capital and governance disclosure regime, going well beyond the disclosures initially mandated in the final capital [rule](#) to instill market discipline long associated with private companies, not conservatorships.

- **CBDC13**: Newly in place as Fed Vice Chair, Lael Brainard today made it clear at an HFSC full committee hearing that her prior statements laying out CBDC benefits are still her thinking despite the considerably more ambivalent approach outlined in the Fed's discussion draft ([see FSM Report CBDC10](#)).
- **DEPOSITINSURANCE113**: Using a new approach to issuing enforcement edicts – a circular – the CFPB has made use of its controversial decision to bring nonbanks under its ambit to bolster the FDIC's efforts to enhance consumer understanding of which funds are entrusted to FDIC-insured depositories and which may be at greater risk in other hands.
- **CRYPTO27**: Sharp disruptions in cryptoasset markets, and especially those for stablecoins, have energized calls for rapid U.S. statutory and regulatory action along lines initially laid out by the President's Working Group on Financial Markets (PWG).
- **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.