



# *FedFin Daily Briefing*

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Wednesday, June 8, 2022

## **CFTC Contemplates Broad Climate-Risk Action Plan**

Acting on the President's executive order ([see FSM Report GREEN8](#)), the CFTC is [seeking comments](#) on how climate risk affects the derivatives market, underlying commodities markets, the entities it regulates, and financial institutions that might be directly affected by climate risk in this sector. Supporting FSOC's work, the Commission also seeks comments on systemic risk implications as well as near-term initiatives. Many of these relate to risk analytics, with the CFTC confronting the same measurement and methodology challenges Secretary Yellen told Congress affect all of the work under way at FSOC and related agencies ([see Client Report FSOC26](#)). However, drilling down, the Commission is also looking at scenario analysis and even stress testing, asking for example how scenario or stress analyses should be constructed and whether they should be targeted for products, sectors, institutions, or asset classes. Detailed questions are also asked about the need to target risk management, especially with regard to margin models, to climate risk and, if so, how best to do so. Although the Commission is likely to follow the tentative steps under way at other U.S. financial regulators, it does have a history of leadership in this sector starting with its 2020 Report ([see Client Report GREEN4](#)) that for the first time laid out many of the risks now well understood to confront the financial sector. It may thus seek to preserve its leadership role with more affirmative actions following this inquiry.

## **CFPB Plans Fit-for-Purpose Data-Privacy Regime**

When we [yesterday predicted](#) that Sen. Brown's comments about data privacy would spark CFPB action, we didn't expect that it would come today. However, Director Chopra used his opening comments and those throughout an advisory-committee meeting to argue, as had the Senate Banking chairman, that personal data are now being used for purposes adverse to fair markets and consumer protection. Mr. Chopra confirmed that the Bureau is working on the data-ownership rules stipulated in the President's competition order ([see Client Report MERGER6](#)), but for the first time also stated that he is opposed to constructing something akin to EU open banking because of the way it empowers bad actors. Arguing that both GLBA and FCRA advise on a notice-and-consent process most consumers neither use nor understand, the CFPB is looking instead at data standards that expressly limit third-party access based on the purpose to which consumer data would be put. No timing for action was noted.

## **Board Soon to Get Barr**

The Senate Banking Committee [today](#) voted 17-7 to advance Michael Barr's nomination for Vice Chairman for Supervision at the Federal Reserve to a full Senate vote. Given Sen. Toomey (R-PA)'s support for Mr. Barr, rapid confirmation is almost certain. Those voting against Mr. Barr were Sens. Shelby (R-AL), Crapo (R-ID), Tillis (R-NC), Kennedy (R-LA), Hagerty (R-TN), Cramer (R-ND), and Daines (R-MT). Sen. Toomey said he voted for confirmation due to Mr. Barr's pledges of Fed transparency and a commitment that the Fed will not use its power to transition the U.S. to a lower-carbon economy. Sen. Menendez (D-NJ) blasted the Federal Reserve for never having any Hispanic leaders, but commended Mr. Barr's diversity commitment. As noted in our initial assessment of [Mr. Barr](#), we expect him to be a strongly-progressive voice at the Fed with strong views sure to shape policies in areas such as mergers, climate risk, and regulatory reform.

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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](#).

- **[GSE-060722](#)**: FHFA released its first-ever [report](#) on the extent to which Fannie, Freddie, and the FHLBs meet their statutory mission.
- **[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](#).