



FedFin Daily Briefing

Wednesday, June 15, 2022

Thompson FHFA Sticks with Utilities for GSE Future Charters

The FHFA today issued its annual [report](#) to Congress. Although the first under now-confirmed Director Thompson, it follows the agency's practice of reporting to Congress largely on past actions. It also reiterates prior requests for statutory change including the authority to examine third party servicers used by the GSEs and to adjust statutory capital definitions. FHFA also again requests a number of changes it thinks are needed for the GSEs to exit conservatorship including reconfiguring them as utilities, charter revisions, and the ability to charter new GSEs. The report also includes a new request: statutory authority to create reserves funded by GSE guarantee fees. We will shortly provide clients with an in-depth assessment.

CFPB Demands Better BNPL Data, Improved Credit Reporting

Although the CFPB has taken no official action on buy-now/pay-later finance since its January [RFI](#), it today [issued](#) a staff report on the sector containing a new statement of CFPB policy. This declares that BNPL lenders should furnish positive and negative payment data to nationwide consumer reporting companies. It also cites problems with inconsistent data treatment arising in variations of BNPL payment data plans announced by credit reporting agencies, telling them to standardize data formatting and filing categorization to prevent downstream issues for consumers. In addition, the Bureau states that the reporting companies should include BNPL data in core credit files, telling lenders to build models accounting for qualitative variations in borrower BNPL loans. The bulletin otherwise highlights the negative consequences of missing BNPL data on both borrowers and lenders.

Basel Battens Down First Climate-Risk Hatch

The Basel Committee today issued a final version of its 2021 proposed set of high-level principles for managing climate risk ([see FSM Report CLIMATE12](#)). We will shortly provide clients with an in-depth assessment of this new global framework, which is also the starting gun for final action on OCC and FDIC risk-management guidance ([see FSM Report GREEN12](#)). The Fed has yet to join this effort but should do so quickly after Michael Barr is in place as supervision vice chairman. The final Basel principles are slightly more emphatic than the consultation on the need for banks to factor solvency risk into their internal stress testing as well as to ensure that capital and liquidity risks are adequately captured in other analyses. It is also slightly more specific about scenario analyses and the need to begin them immediately under supervisory scrutiny. However, reflecting both industry and agency concerns, the global approach continues to recognize the dynamic nature of climate-risk data, measurement methodology, and risk channels. No supervisory actions when banks fall short of these principles are included. Basel asks nations to implement its principles as quickly and proportionately as possible and plans to review them for further action in "due course."

TD Merger Draws Democratic Fire

Reflecting continuing opposition to large-bank mergers, Sen. Elizabeth Warren (D-MA) along with Reps. Katie Porter (D-CA), Chuy García (D-IL), and Al Green (D-TX) today [sent a letter](#) to Acting Comptroller Hsu demanding that TD's proposed acquisition of First Horizon Bank be denied unless

or until the bank is held accountable for what the Members describe as flagrant consumer abuses. The matter in question dates back to 2017 and involves improper consumer-product sales described as akin to those uncovered shortly before at Wells Fargo. The issue was resolved by then-Acting Comptroller Noreika, but very much not to their satisfaction because no stringent enforcement action was imposed. It remains to be seen if or how the OCC will reopen a long-closed enforcement action or if it can find other actions suitable for sanction designed to show that the merged bank will follow best practices.

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-061522](#)**: Today's report to Congress is FHFA's first foray into expressing a statutory opinion since Sandra Thompson took over, a change doubtless due to her newly confirmed status and the will to tackle hard questions in which Congress has only nominal interest in the absence of another crisis.
- **[CRYPTO28](#)**: After protracted negotiations and much public attention, bipartisan senators have introduced a far-reaching bill designed to encourage digital-asset use without undue risk to consumers, investors, or the financial system.
- **[GSE-060922](#)**: When Sandra Thompson earlier this year enunciated a new equitable-finance mission, we [forecast](#) that Fannie and Freddie would undertake an array of new activities that significantly expand their footprint along with their equity and equality impact.
- **[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.