FedFin Daily Briefing

Tuesday, June 21, 2022

Deadline Set for CFPB Inquiry into Customer Service

The *Federal Register* today includes the CFPB's RFI on how big banks serve their customers (see FSM Report **CONSUMER43**), now seeking a comment deadline of July 21. As noted, the RFI seeks views on the quality of customer service when requesting their information from institutions with more than $10 billion in assets. The RFI's overall inquiry is premised on the view that customer service falls under its authority because relationship banking has broad benefits for fair competition and equity. The Bureau also asks for information on the quality of call-center services, whether experiences differ for minority, rural, or elderly customers, and what large banks use consumer data (an inquiry with broader implications discussed in our in-depth report) and other customer service questions.

BIS Presses Hard for Fast-Acting CBDCs, Payment Systems, Crypto Standards

The BIS today issued an ambitious report outlining what it calls a "new monetary order." This would include CBDCs along the two-tier lines the global central bank has recently advocated (see FSM Report **CRYPTO13**) as well as a new regulatory regime for crypto currencies. We will shortly provide clients with an in-depth analysis of the BIS framework, which will have considerable influence on many central banks, including the Fed and, less directly, on Congressional decision-making. The BIS chapter also emphasizes the importance of faster payments and the challenges to speeding these across orders, noting that its own work with CBDCs has shown considerable promise. The paper includes an analysis of both the inherent limitations of blockchain and how permission DLT could use CBDC. It also details best practices for crypto regulation, with Managing Director Carstens today saying that he does not believe current stablecoin problems presage systemic risk but that this could come in time as cryptocurrencies scale up in the absence of CBDCs.

SEC Finally Nabs a CRA for Conflicts of Interest

The SEC today announced an unusual enforcement case against a credit rating agency, acting on demands recently expressed by HFSC Democrats. Specifically, the Commission sanctioned Egan-Jones Ratings Company and its CEO, Sean Egan, stating that Mr. Egan had conflicts of interest because he considered the agency's business implications when he presided over rating-setting deliberations. The SEC's and Egan-Jones settled with a $1.7 million penalty and related disgorgement, along with a commitment to conduct training, retain an independent consultant, and prohibit Mr. Egan from participating in credit-rating processes. Mr. Egan also agreed to pay $300,000 to settle personal charges.

FDIC Proposes DIF Rate Hike, Possible Assessment-Standard Realignment

Taking action after two years, the FDIC today proposed to increase bank DIF premiums by two basis points. FDIC Acting Chairman Gruenberg noted that the 2020 rationale for deferring premium increases depended on the prediction that pandemic-era insured deposit growth would normalize, but this has not happened. Indeed, insured deposit growth in the first quarter of 2022 increased by the largest amount in thirty years, not counting 2009 and the early pandemic. The FDIC estimates that the premium increase will result in an average annual reduction of less than two percent in bank income, with the Acting Chairman noting that the industry is now well positioned to absorb it and that waiting to hike premiums could prove procyclical. Acting Comptroller Hsu invited comments on the proposal's impact on community and midsize banks; CFPB Director Chopra also wants comment on implications for different bank sizes, suggesting that GSIBs pay higher premiums due to their greater risk. He also called for a wholly new way to set premiums via an automatic stabilizer so that the reserve ratio no longer relies on "ad hoc" factors such as bank profitability. Comments on the proposal are due by August 20. Premiums will take effect on April 1, 2023.

HFSC Highlights Fed Policy Twists Ahead of Powell Hearing

The Democratic staff memo ahead of HFSC's Thursday hearing with Chairman Powell provides a detailed discussion of recent monetary-policy moves and the extent to which the Fed has been surprised by macroeconomic events. This creates the backdrop for what we expect will be continuing, vigorous GOP attacks on the central bank's ability to contain inflation; Democrats will generally refrain from harsh attack, but may well ramp up their questioning on this sore point given its critical importance to their chances in the midterm election. The memo also discusses CBDC, stating that the Fed does not plan to proceed without "specific" authorizing law even though Mr. Powell has been less specific about how much approval and in what form the Fed would demand from both the Administration and Congress should it proceed to launch a CBDC. The memo also notes that Mr. Powell has said a CBDC may not be necessary once FedNow ramps up, also describing recent controversies over master-account eligibility, the CRA proposal (see FSM Report **CRA32**), and the status of Fed diversity. Consistent with this oversight hearing, no legislation is noted as germane to the session.

Spurred by GAO, OCC to Ramp Up Redlining-Exam Procedures

The GAO today recommended that the OCC update its redlining examination procedures and improve its data collection related to small banks in this area. The GAO found that OCC examiners did not account for new statistical methods used to identify redlining and did not consistently follow some redlining examination procedures. In response, the OCC has pledged by the end of the year to update its Fair Lending booklet with more recent public cases of redlining and an expanded list of redlining risk factors. It also plans to develop redlining best practice trainings for its examiners by September 30, with all of these efforts likely coordinated with those set to implement a tougher fair-lending and redlining review process once the inter-agency CRA standards (see *Client Report* **CRA31**) are finalized.

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.

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- **CONSUMER43:** Combining some of its outstanding initiatives and adding new ones, the CFPB is seeking information on how well larger banks and credit unions serve consumers and what steps may be needed to make them do better.

- **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.

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