FedFin Daily Briefing

Tuesday, June 28, 2022

HFSC Campaign vs. Chopra May Clear Hsu

Continuing their campaign against CFPB Director Chopra, HFSC Ranking Member McHenry (R-NC) and Consumer Protection and Financial Institutions Subcommittee Ranking Member Luetkemeyer (R-MO) sent him a letter late yesterday accusing him of falsehoods related to legal opinions germane to the battle at the FDIC earlier this year on bank-merger policy (see FSM Report **MERGER9**). This issue is not a new one for Congressional Republicans, who are likely to deploy it seeking to oust Mr. Chopra from his position and/or block his actions should they gain Congressional control in the next Congress. However, the letter also notes that Acting Comptroller Hsu told Republicans that the OCC played no role in various opinions or actions germane to the merger incident, contradicting Mr. Chopra's assertions to the committee in ways Republicans say are untruthful. This exchange could clear Mr. Hsu for Senate confirmation as Comptroller should the White House now bring forth his nomination.

FinCEN, Commerce Urge Strong Sanction Vigilance from Trade-Financing Banks

FinCEN and the Commerce Department Bureau of Industry and Security released a joint alert today urging increased financial-institution vigilance regarding Russian and Belarusian attempts to evade import sanctions. The alert reminds financial institutions directly involved in providing trade finance that they may have access to additional information identifying suspicious activity, such as export documents or letters of credit. It then lists a series of "red flags" for which financial institutions should look to identify trade-related suspicious activity, such as sudden changes to a transaction with an originator located in Russia or Belarus or transactions with atypical shipping routes. As we have frequently noted, financial institutions doing business in the U.S. and even those domiciled abroad may face severe penalties if they are found to facilitate or enable sanctioned transactions.

CFPB Sets States Free to Interpret the FCRA

Using one of its new administrative procedures – an interpretive rule, the CFPB today expanded on its prior effort to encourage states to undertake vigorous consumer protection by establishing the principle that states may preempt federal standards pursuant to the Fair Credit Reporting Act except where federal preemption is clearly enunciated in the Act. The Bureau believes that state laws that are more protective than the FCRA or relevant federal rules are not inconsistent with the Act and therefore not preempted, which is a more expansive reading of states' rights under federal statutes addressing inconsistencies between federal and state law than often relied upon in matters such as these. As a result, the Bureau appears not only to be encouraging states to mandate credit-reporting practices in areas such as medical debt or rental evictions, but also stating that national banks are subject to state law when it comes to the content of furnisher reports to credit reporting agencies and related FCRA issues (e.g., exchange of information with affiliated persons). The rule will be effective when published in the *Federal Register*.

FRB Study: LMI Households Pay More for Transaction Accounts, Discrimination Not the Cause

A new FRB study finds that banks in LMI and majority-minority communities charge higher maintenance fees and require higher minimum account balances compared to other census tracts, with fee differences compounded for communities that are both LMI and majority-minority. The authors evaluate several control variables to explain their findings; these include bank operating costs and lending-related revenue, bank age and size, the proportion of large banks in a census tract, and the average number of other banks and alternative financial services providers. Once these control variables are factored into fee and balance costs, standard economic explanations underpin these differences. Although some correlation is observed between older banks and higher fees, a stronger correlation is found between newer banks and lower fees. Larger banks with high market power present the strongest positive correlation with higher fees and minimum account balances. To address cost inequalities in access to financial services, the authors cite as potential considerations both the FDIC's Model Safe Accounts Pilot and proposals that the U.S. Post Office or the Federal Reserve System provide individual checking accounts.

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.

- **DEPOSITINSURANCE114:** The FDIC is proposing to raise base Deposit Insurance Fund (DIF) assessments by two basis points (BPS) to replenish the DIF by the statutory deadline to reflect deposit inflows that the FDIC no longer expects to be temporary.
- **GSE-062722:** A new Fed paper analyzes the striking differences between mortgage-market liquidity – or the dramatic lack thereof – in the great financial crisis of 2008 and the pandemic crisis of March, 2020.
- **FEDERALRESERVE71:** At today's HFSC hearing, Chairman Powell encountered the same political headwinds evident at yesterday's Senate Banking session (see *Client Report* **FEDERALRESERVE70**), reinforcing and even heightening his commitment to fighting inflation in concert with hopes that a soft landing may still be possible.
- **GSE-062322.pdf:** Following a sharp critique of GSE capital standards earlier today from the Urban Institute, FHFA Director Thompson today acknowledged Fannie and Freddie's new 50 bps fees when one of the GSEs guarantees the other's collateral for UMBS purposes.
- **FEDERALRESERVE70:** As we expected, today's Senate Banking session with Chairman Powell is a preview of broader national debate ahead of the midterm election.
- **CLIMATE14:** The Basel Committee has finalized its proposed climate-risk management principles largely unchanged from its proposal, establishing over-arching goals at which both banks and their supervisors are asked to aim.
- **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).

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