FedFin Daily Briefing

Tuesday, July 19, 2022

Fed Seeks to Bring Order Out of Looming LIBOR Chaos

Fighting the end-September deadline demanded in the new law (see FSM Report **LIBOR7**), the Federal Reserve Board today unanimously proposed the formulas by which benchmark-rate compliance will be judged in LIBOR-based legacy contracts without rate-fallback contractual clarity. As provided in the law, the rule details replacement rates following the end of LIBOR in June of 2023. Also reflecting the law and market conditions, the proposal specifies how rates are to be set with SOFR-based indices for derivatives, contracts with the GSEs, and virtually all other legacy financial obligations. We will shortly provide clients with an in-depth analysis of the NPR; comments on it will be due thirty days after *Register* publication.

House Advances Sanctions, Cash-Access, Credit-Union, Mortgage Legislation to Uncertain Senate Fate

Chairwoman Waters (D-CA) today released an accounting of all the HFSC measures included in the massive National Defense Authorization Act (NDAA) approved by the House late last week. The thirty-nine bills generally have little to nothing to do with defense, but they join hundreds of other riders attached to what many think may be the only bill successfully enacted before the mid-term election or even thereafter ahead of a perhaps very different Congress. Even so, most House riders will fall by the wayside unless the narrowly controlled Senate agrees with them. This is likely to be the case only for some of the House-passed bills.

These include a series of measures toughening current anti-Russia sanctions, codifying others where the Biden Administration pushed executive authority, and demanding tougher measures in areas such as secondary sanctions. Many of these are likely to be approved and perhaps toughened in the Senate. Anti-China provisions addressing issues such as U.S. voting in international financial institutions and corporate disclosures are also generally bipartisan. This is not the case, however, for provisions expanding credit-union lending authority, requiring lender disclosures on borrower's sexual orientation and gender preference, mandating cash acceptance, and making additional appropriations for minority depository institutions. The NDAA also presses for additional small-dollar mortgage lending and an FHA-premium discount for first-time homeowners, language that the Senate may accept.

House Judiciary Damns Bigtech, Skirts Financial Services

House Judiciary Committee Democrats today tried to reinvigorate antitrust legislation focused on bigtech companies with a report concluding that stronger antitrust and merger enforcement is needed for Google, Amazon, Facebook, and Apple. The legislation essentially bars these firms from having their own offerings over those from third-party providers, making it considerably harder for these bigtech companies to crowd out third-party payment processors, instruments, and credit products. Although we have reviewed the report to assess the extent to which it expressly addresses financial services, we found no such discussion. Instead, the report assesses the negative implications of these companies' dominant market share on innovation, data privacy, and political liberties. It will not directly affect the CFPB's bigtech initiative, but what Director Chopra will surely see as validation for his competition concerns may accelerate it.

CFPB Presses SPCs

The CFPB today issued a staff statement reiterating key points in February's inter-agency statement encouraging special-purpose credit (SPC) programs. The new CFPB release reiterates the criteria for SPCs that comply with the Equal Credit Opportunity Act, noting also the benefits such programs may afford to racial equity. The Bureau reiterates its intention to support SPC "incentives" and invites institutions to contact it if they are unsure of the extent to which an SPC complies. As previously noted, Fannie and Freddie recently announced massive equitable-finance plans that include numerous SPCs. Because the GSEs fall into the most complex SPC category related to ECOA compliance, the Bureau may well here be trying to allay concern and accelerated programs otherwise controversial to House Republicans and some private lenders.

OFR Details Commercial Real Estate Recovery, Emerging Risks

OFR today released a study detailing how the commercial real estate (CRE) market weathered the 2020 recession, also describing CRE's future risks. Providing no policy recommendations, the report notes that CRE historically tends to perform poorly following a recession, as the sector took seven quarters to recover following the 2008 crisis. However, CRE recovered quickly after 2020, due to economic recovery, ample liquidity, and low interest rates. The Fed's role supporting financial markets lay behind much of this but is not noted by OFR. The report also highlights emerging risks, including a sustained rise in inflation, investors requiring a higher risk premium, negative economic growth, and a change in lessee preferences that could increase CRE vacancy rates.

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-071922:** As noted earlier today, the Fed has finally brought forth its LIBOR-transition proposal specifying permissible benchmarks for legacy contracts without contractual fallback rates.

- **CRYPTO30:** As part of its response to the President's digital-asset executive order, the Department of the Treasury is seeking views on the broad policy questions on which it believes answers might guide the Administration's next steps.

- **GSE-070822:** A new Fed staff note contains startling statistics on how much the housing market has changed in just a few months at grave cost to lower income households.

- **CRYPTO29:** Global banking regulators are trying a new, but still stringent, approach to governing bank exposures to certain types of crypto assets, revising an initial consultation to focus more on supervisory limitations than on extremely punitive capital requirements for what are deemed to be lower risk cryptoassets.

- **CREDITCARD35:** Taking the first concrete action following its new policy on "junk fees," the CFPB has sought public comment on whether and how to govern credit-card late fees and broader practices related to late payments.

- **GSE-070122:** FHFA today essentially conceded after its initial polite rebuff to an Urban Institute critique of the capital rules adverse impact on UMBS.
- **GSE-063022:** The Federal Reserve Bank of Philadelphia's latest report on foreclosure risk includes a worrisome finding: the sharp rise in interest rates means that most loan-mod recipients won't actually get much relief.
- **GSE-062922:** In response to a request from its Inspector General, FHFA renewed the commitment to fourth-party supervision.
- **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.

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