FedFin Daily Briefing

Friday, July 29, 2022

Credit-Card Routing Expansion Introduced, Faces Long Odds

As anticipated, Sens. Marshall (R-KS) and Durbin (D-IL) have introduced S. 4674, legislation to extend routing-system requirements to credit cards. The bill applies only to banks with assets over $100 billion but is nonetheless opposed by all of the banking and credit-union trade associations, who doubtless expect the bill's requirements to result in the lower interchange fees across the system touted by the bill's sponsors. The sponsors do not mention the security and operational risks also associated with requiring that credit-card transactions be routed on at least two unaffiliated, small networks. We do not expect the legislation to pass at this late date in the session, but it may put more pressure on the Fed to finalize proposals opening up debit-card routing (see FSM Report **INTERCHANGE8**).

FDIC, Fed Crack Down on IDIs Working with Crypto Companies

In addition to joining the Fed in sending a stern warning to Voyager about misrepresenting FDIC insurance, the FDIC today issued an advisory instructing IDIs as to how best to partner with crypto companies to prevent future misunderstanding and ensure compliance with the agency's new rule (see FSM Report **DEPOSITINSURANCE113**). The advisory describes the ways in which consumers might confuse nonbank products with insured deposits and cites legal and run risk to banks working with such firms and details risk management and governance standards applicable to these arrangements. Among them is a requirement that banks regularly monitor what the crypto company says about funds housed at the bank and take steps to prevent confusion when these statements are problematic. The Fed joined in the letter to Voyager because the bank involved, Metropolitan Commercial Bank, is a state member bank; its decision to do so suggests it will also take action when banks under its authority fail to adhere to the FDIC's new advisory.

BIS Lays Out Risks to Central Bank Green Assets

The BIS Consultative Group on Risk Management today released a report detailing the data and methodological challenges faced by central banks implementing climate risk into their reserve-management frameworks. The paper responds to moves such as those by the ECB to hold green bonds and similar instruments as portfolio assets to create positive incentives for activities deemed to further the public good. Despite continuing progressive calls for the Fed also to hold climate-risk related assets, the U.S. central bank is strongly of the opinion that its mandate does not allow it to do so even if this form of credit allocation were found to be desirable. The report highlights the complexity of modeling climate change as the main methodological barrier to central-bank holdings – a finding of course also germane to demands that banks devote more of their portfolio to this asset class. The report also notes that ESG credit ratings that assess default risk are the most widely available source of climate-risk data, but metrics regarding market or liquidity risk are not widely available. As a result, barriers to central-bank holdings include uncertainty and lack of historical data, with the report concluding also that scenario analysis and stress testing may be too data-intensive and complex to implement.

FTC Takes on Payment Processing

The FTC today unanimously reached a settlement with the nation's largest payment processor, First American, related to what some call "trick-and-trap" practices. Although the scale of the alleged misdeeds related to thousands of often very small businesses is sweeping, the penalty — $4.9 million — is relatively small. Thus, despite the attack on "junk fees," the actual scope of harm may not be extensive. Among other things, First American agreed no longer to make withdrawals from customer accounts without express authorization, also ending early-termination fees and other practices.

BIS Advances Cross-Border PVP Payment Options

Hoping to speed the introduction of payment versus payment (PvP) systems to reduce frictions in cross-border payments, the BIS today released a call for information that details previous PvP proposals and asks for comment on them. The call for views reiterates two options: a centralized model in which the settlement of both currency legs occurs on the ledger of a single settlement institution and a decentralized model in which settlement occurs on the ledger of two separate institutions, synchronized by a settlement agent or the counterparties themselves. It seeks views on matters such as whether either approach would the increase adoption of PvP and what roles the public and private sector should play. The BIS plans to hold two PvP workshops by September, using its results and the comments from this call – due by September 30 – to publish a final report shortly after.

HFSC Republicans Expand CFPB Attack to State-AG Partnerships

Continuing their campaign against CFPB Director Chopra, HFSC Republicans have sent him a letter accusing the Bureau of intimidating companies by pursuing duplicative enforcement actions with state regulators. It argues that the Consumer Financial Protection Act does not allow for a state attorney general to become a party to an existing enforcement action, leading the Members to denounce the CFPB's partnerships with the New York Attorney General in its enforcement actions against repeat offenders. The letter demands that the CFPB provide all communications between the Bureau and state attorneys general and asks the Director what authority the CFPB claims in what they call recruiting state attorneys general, setting a deadline of August 12. It remains to be seen if Mr. Chopra is more willing to address GOP concerns than he has been in past instances, but all of these issues will surely be aired with considerable force and likely statutory intent if Republicans gain House control in the midterm.

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.

- **LIBOR8:** Moving belatedly but now expeditiously to implement legislation governing legacy-contract benchmarks when there is no contractual fallback rate, the Fed has proposed a new framework for derivatives, consumer loans, certain GSE contracts, and any other legacy contracts without clear

LIBOR-replacement provisions and a "determining person" to effectuate them.

- **GSE-072122:** We yesterday provided a complete assessment of Sandra Thompson's sojourn on HFSC's griddle, noting the lack of any insights into essential issues such as conservatorship's end or the full scope of CRT's new beginning.
- **GSE147:** At her first hearing as confirmed FHFA Director, Sandra Thompson made it clear to House Financial Services that she is committed to expanding credit-risk transfer (CRT), encouraging equitable finance via new GSE activities, and recapitalizing Fannie and Freddie as quickly as possible.
- **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.

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