FedFin Daily Briefing

Tuesday, August 16, 2022

FRB-Cleveland Study: Banks are Better Small-Business Lenders Than Fintechs

Using data from the 2021 Small Business Credit Survey, a new Federal Reserve Bank of Cleveland study concludes that small businesses that made use of online lenders were less satisfied with their experiences and more likely to report high rates and unfavorable repayment options than those that used banks. The study also found that online lenders were less likely than banks to approve the full extent of financing, noting that this was not the case prior to the pandemic. Although the authors do not expressly endorse a policy solution, their discussion of borrower problems and applicable state law suggests they would urge consistent disclosure for small business credit products.

Fed Gives Guarded Guidance re Crypto Activities

The Federal Reserve Board today released a supervisory letter requiring state member banks to obtain prior approval before commencing cryptoasset-related activities and to ensure that appropriate internal controls are in place in order to do so. This letter comes a day after the board announced its new payment-system access policy and is likely intended to make it clear that activities in or out of FDIC-insured banks related to cryptoassets will not get the free pass some fear. We will shortly provide clients with in-depth analysis of this new policy as well as the payment-access standards. The Fed's supervisory letter is similar to that previously issued by Acting Comptroller Hsu for national banks. As noted, Sen. Warren (D-MA) and other Democrats have pushed Mr. Hsu to go farther and revoke previously-approved activities now grandfathered for national banks; this issue is not as significant for the Fed since it has not previously authorized anything as sweeping as contemplated by former Acting Comptroller Brooks, but the Fed is clearly attuned to it. As a result, the new letter requires state member banks engaged in crypto activities immediately to notify the Fed as well as ensure it has requisite controls. Although the supervisory letter notes the potential benefits of cryptoassets, its description is daunting when it comes to the risk and the controls banks accordingly must ensure. The letter also emphasizes the importance of consumer protection. The FDIC has yet to go beyond agreement to a vague inter-agency statement on crypto policy, but press today indicate that it told Sen. Toomey (R-PA) that its hold on any cryptoactivities is both necessary and appropriate.

Toomey Presses for FDIC-Authorized Crypto Activity

Sen. Toomey (R-PA) sent a letter today to acting Chairman Gruenberg alleging that the FDIC has instructed FDIC regional offices to send letters to multiple banks requesting that they refrain from expanding relationships with crypto firms without any legal basis, citing multiple whistleblower complaints. He asks that Mr. Gruenberg provide any communications that the Washington office has had with FDIC regional offices on the subject by August 30. As reported in the press, the FDIC stated that this practice ensures that banks conduct crypto-related activities in a safe and sound manner and is consistent with its longstanding legal authority. Doubtless expecting an answer along these lines, Sen. Toomey addresses Mr. Gruenberg only as "director," not "acting chairman;" the Senator has previously argued that Mr. Gruenberg acts without legal power in his current role due to his long-expired term.

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.

- **FINTECH30:** Continuing its practice of setting sweeping policy by administrative action without prior notice or comment, the CFPB has issued an interpretive rule sharply curtailing the extent to which digital advertising and market strategies are exempted from the legal and compliance obligations associated with most parties directly providing consumer financial products or services and those acting as servicers to these entities.

- **GSE-081222:** FHFA, Fannie, and Freddie yesterday released the results of FHFA's latest stress test, focusing on the severely-adverse scenario in order – or so FHFA says – to push the GSEs to the limit.

- **INTERCHANGE10:** Two senators have reopened questions about the manner in which card-related payments are handled, tackling those applicable to credit cards with a bill mandating that merchants must be given a network choice that is not either Visa or Mastercard in order to, the sponsors argue, increase competition and lower credit-card transaction costs.

- **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.

Federal Financial Analytics, Inc.
2101 LStreet, N.W. – Suite 300, Washington, D.C. 20037
Phone (202) 589-0880
E-mail: info@fedfin.com www.fedfin.com