



FedFin Daily Briefing

Tuesday, September 6, 2022

BIS Staff: Banks Have Power Over Bigtech, But We're Not So Sure

A new [paper](#) from BIS staff argues that bigtech firms have so much power over small-and-medium sized enterprises (SMEs) using their networks that they must “self-limit” this to continue to grow, leading them to share data with banks that fund loans via cheap deposits. We find the paper puzzling given its description of the captive ecosystem in which bigtechs can readily exploit data unavailable to banks to set credit terms and also enforce loan agreements by virtue of their power to exclude an SME from a vital source of customers. The rationale for the conclusion about bigtech’s eventual need to reach out to banks is the assumption that bigtech will eventually require external funding. Over time, this reliance on banks is said to enhance SME data privacy, but we are unsure how this would occur outside the paper’s various models and assumptions if banks become what might be deemed captive funders to a bigtech company given the paper’s discussion also of a bigtech company’s advantages over banks in terms of lending-product efficiency. Further, even if bank/bigtech partnerships gave banks a new lending outlet, this seems likely only in nations where bigtech funding depends on banks, which is not the case in the U.S. given the depth of capital-market corporate funding channels.

CFPB's Sweeping Data-Protection Standards Now Effective

Today’s *Federal Register* includes the [CFPB’s circular](#) on insufficient data protections and security; the circular is now effective. As noted ([see FSM Report INFOSEC28](#)), the circular states that inadequate consumer-data safeguards may constitute a breach of unfair, deceptive, or abusive acts or practices (UDAAP) protection standards subject to Bureau enforcement. It notably expands the Bureau’s legal interpretations of UDAAP, its authority over nonbanks, and its broad reading of “service providers.” The Bureau’s rationale for this expansion is grounded in a 2021 FTC rule mandating data safeguards similar to those governing banks under the Gramm-Leach-Bliley Act, and the circular cites credit-reporting agency lapses as well as “unfairness” in a recent Equifax case as examples justifying the need for greater protections. Reflecting the legal ambiguity of CFPB actions such as this circular, the *Federal Register* notice today describes it as a “rule.”

OCC Prioritizes Community Banks

The OCC today released its five-year strategic [plan](#). It focuses on staffing, service, and administrative issues, but also briefly notes policy priorities. These include advancing financial inclusion and literacy, deepening collaboration with other regulators, reinforcing and minimizing the regulatory burden on community banks, and developing guidance to facilitate community banks’ transition to digital banking. These community bank priorities repeat those [announced](#) last week by Acting Comptroller Hsu.

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-090122](#)**: As seems always the case, FHFA Director Thompson is as good as her word to Congress earlier this [summer](#), announcing [yesterday](#) a review of the extent to which the Home Loan Banks and their System meet the mission assigned to them and, regardless, if that mission still makes sense.
- **[GSE-083022](#)**: BofA's new no-down payment [mortgage](#) is another innovative product in which banks use their balance sheets to address their CRA obligations by offering down payment assistance or, as here, flat out nothing down.
- **[CRYPTO31](#)**: Reflecting the concerns voiced in a recent executive order from President Biden and a subsequent request for views from Treasury, the Federal Reserve has joined the OCC in demanding prior notice from banking organizations that wish to undertake cryptoasset activities.
- **[GSE-082222](#)**: A new Federal Reserve Bank of Cleveland [study](#) validates forbearance as a mortgage-market buffer, reinforcing the likelihood that policymakers and servicers will turn quickly to it if current mortgage-market conditions turn ugly under the combined stress of higher rates and slow to no growth.
- **[GSE-081922](#)**: We look here at an interesting [idea](#) from three senior Fannie Mae officials: an index to measure a Single-Family MBS's social impact.
- **[PAYMENT25](#)**: Following considerable controversy surrounding how Federal Reserve Banks grant master accounts, it has finalized a somewhat more explicit set of guidelines along lines proposed the second time the Fed attempted to set guidelines via a "supplemental" proposal earlier this year amending its 2021 effort.
- **[GSE-081722](#)**: [FHFA](#) and [Ginnie Mae](#) today let loose their long, long delayed standards for eligible seller-servicers.
- **[INFOSEC28](#)**: Using another of its tools to set policy without prior public comment, the CFPB has released a circular stating that inadequate consumer-data safeguards may constitute a breach of the unfair, deceptive, or abusive acts or practices (UDAAP) protection standards subject to Bureau enforcement action.
- **[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.