



# *FedFin Daily Briefing*

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Thursday, September 15, 2022

## Financial Transactions to Get More Stringent CFIUS Scrutiny

The President today issued an executive order (EO) [redefining](#) key criteria used by the Committee on Foreign Investment in the U.S. (CFIUS). Although principally targeted at emerging and strategic technologies (e.g., AI) and China, the new policy also affects financial-sector mergers by virtue of greater focus on the need also to protect sensitive personal and corporate information. A transaction several years ago in which a Chinese conglomerate sought to acquire a U.S. long-term care insurer foundered on these grounds as well as continuing regulatory uncertainties about the acquirer's capital resilience. The new policy also highlights cyber-risk as a transaction-level consideration, heightening this issue for foreign financial transactions. With this new policy, foreign transactions involving consumer financial data will get still more scrutiny especially if the acquirer, while small, is domiciled in a regime of national-security concern or where other entities already hold large stakes in like-kind firms.

## BNPL Faces DOA Consumer Standards

In conjunction with issuing a lengthy [report](#), CFPB Director Chopra today [announced](#) that he has directed staff to work on new interpretive rules or guidance for the BNPL sector. This follows his practice of speeding action via administrative edicts rather than public notice and [comment](#), accelerating the likelihood of BNPL requirements beyond the schedule anticipated in press coverage [today](#). Mr. Chopra notes that the agency is focused on ensuring that BNPL firms adhere to many of the same standards currently in place for credit cards such as credit reporting and supervisory examinations. In addition, CFPB staff will investigate BNPL data surveillance and marketing practices, doubtless demanding adherence to new digital-marketing standards ([see FSM Report FINTECH30](#)) and sharply limiting use of personal data.

## Basel Battles On

Acting as anticipated following instructions from [on-high](#), the Basel Committee [today](#) “exchanged views” on pending crypto regulation ([see FSM Report CRYPTO29](#)) – terminology suggesting the committee has yet to reach agreement on this controversial consultation despite a request by central bankers and supervisory heads to finalize standards by year end. Reflecting concerns throughout the [BIS](#), the committee also focused on AI and explicability, opacity, and governance risks; the release today does not, however, make clear what may come next. Basel also continues to work on climate-risk principles along pending lines ([see FSM Report CLIMATE14](#)) and reviewed the list of GSIBs to be approved later this year by the FSB. It also assessed banking-system resilience as inflation rises and growth wanes, with the panel noting bank resilience but expressing concerns about many inter-connectivity channels to NBFIs. Basel will thus monitor NBFIs and structural transformation of the financial system, but no action appears imminent beyond the work separately under way by the FSB with a particular focus on MMFs ([see FSM Report MMF18](#)).

## Fed Joins Agencies with CRE Workout Policy

After a delay doubtless reflecting the need to run policies by Michael Barr, the FRB [today](#) proposed the same CRE-workout policies released for comment in early August by the OCC, FDIC, and NCUA. The policy updates 2009 standards to reflect over a decade of accounting and prudential

changes, retaining the initial, comforting language advising banks that well-designed workouts, now also including short-term ones, will not be sanctioned by examiners. Policy would also expand on how to ensure appropriate risk management, reporting, and controls in the course of these workouts, with comments due by November 14; comments are due on the other agencies' [proposal](#) by October 3.

## Waters Tries Late-Game CRA Tackle

Chairwoman Waters (D-CA) today [announced](#) that she has introduced legislation to update the CRA, making the standards tougher for banks but – as far as known so far – failing to extend the law's reach to nonbanks as urged by CFPB Director Chopra and Sen. Warren (D-CA), among others. We will review the bill text when available, with the provisions mentioned in the release – e.g., giving community groups more sway over CRA ratings – likely intended principally to influence the banking agencies as they finalize the pending rule ([see FSM Report CRA32](#)). There is no chance of final action on this bill in this Congress.

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### Recent Files Available for Downloading

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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](http://www.fedfin.com) or clients may obtain the reports/analyses by e-mailing [info@fedfin.com](mailto:info@fedfin.com) giving the requested item name, firm, and e-mail address. To learn more about *GSE Activity Reports*, click [here](#).

- [INVESTOR20](#): The Senate Banking hearing with Chairman Gensler today went as [expected](#): Democrats generally praised his work while Republicans strongly opposed it on both substantive and procedural grounds.
- [INSURANCE61](#): Chairman Brown (D-OH) convened a hearing today focused on the insurance industry largely focusing on the extent to which private-equity takeovers endanger insurance solvency and threaten pensioners following risk transfers.
- [GSE-090722](#): Reinforcing the sharp turn-around in housing markets evident since the Fed surprised markets with its first 75 bps hike, a new working paper from the [San Francisco Fed](#) provides the first hard evidence of how monetary-policy shocks in the U.S. hit listing prices hard and fast.
- [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

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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.

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