



FedFin Weekly Alert

Monday, October 10, 2022

❑ WHY ITS NICE TO BE MAJORITY WHIP

Although the Senate will come back on Tuesday for what will be an almost pro-forma session, one big item is likely to come to the Senate floor: the National Defense Authorization Act (NDAA). This must-pass bill may seem far afield from financial policy, but Majority Whip Durbin (D-IL) has moved aggressively to position his bill to impose interchange-fee restriction once credit cards akin to his now famous “Durbin Amendment” for debit cards ([see FSM Report INTERCHANGE10](#)). The first restrictions on what ends up in the NDAA include what leadership wants and that the amendment has the patina of having something to do with national defense. Sen. Durbin wants it on the floor, and it may well thus end up on the floor he has also added a lengthy provision studying interchange fees on military bases to address parliamentary worries, taking account of two of the three restrictions on what ends up in the bill. The third – Senate approval – will be a lot harder.

Concerted lobbying by united banks and credit-union trade associations has pushed back hard against this amendment, complicating Sen. Durbin’s cause but not necessarily stymying it given how few senators are in town this week. Thus, it’s possible that credit-card fee restrictions make it into the Senate version of the NDAA even though any and all Republicans and likely a Democrat or two will object.

However, that’s not all that has to happen for the bill to end up on the President’s desk. The House has passed its version, but it does not include anything related to interchange fees. Although merchants have a strong political effort under way to counter banks, banks have done their part in the House and approving the fee restrictions on a simple suspension vote or through any “slide-through” strategy is unlikely to succeed.

At the end, the NDAA must pass and anything that complicates that will be set aside, giving banks their best chance to challenge the Majority Whip in this Congress. If Democrats retain the Senate, they’ll do this all over again next year; if not, for sure not.

Headlines From the Past Week’s Daily Briefings

October 3

- **IMF Calls for Open-End Fund Swing Pricing** - The IMF released a [study](#) of open-end funds sure to guide the action promised by SEC Chairman Gensler ([see Client Report INVESTOR20](#)).

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- **FRB-Chicago Study: Big U.S. Banks are Oligopolists** - A new Federal Reserve Bank of Chicago working [paper](#) finds that U.S. banking has become increasingly concentrated judged by the top-five bank's market share and a standard marketpower index, concluding that this "oligopolistic" sector is thus able to charge undue fees to weaker corporate customers.
- **Warren Zelle Report Finds "Rampant" Fraud, Slams Banks** - Following the hearing with large-bank CEOs ([see Client Report REFORM213](#)), Sen. Warren (DMA) released a scathing [report](#) concluding that Zelle is plagued by "rampant and increasing fraud."
- **Board Defies Critics, Demands Two Networks for Online Debit Transactions** - Ahead of possible Congressional action on legislation to restrict credit-card interchange fees ([see FSM Report INTERCHANGE10](#)), the FRB voted 6-1 to finalize its controversial proposal (see FSM Report INTERCHANGE8) requiring debit-card issuers to enable at least two unaffiliated payment-card networks, including with regard to "card not present" transactions.
- **FSOC Presses New Law, Rule, Supervisory Standards to Tackle Crypto Systemic Risk** - As [anticipated](#), the FSOC approved a sweeping [report](#) on cryptoasset financial stability, finding that interconnectedness between this sector and the financial system poses significant risk that warrants structural action.

October 4

- **FRB-Dallas Targets Renewable Energy Credit Risk** - Venturing farther into politically-contentious territory, the Federal Reserve Bank of Dallas issued a [report](#) finding that lenders with credit exposure to commercial renewable energy projects face unique and evolving risks that may adversely affect credit performance.
- **Fed Study: Climate-Risk Insurance Cross-Subsidies Pose Moral Hazard, Financial Risk** - Using homeowners' insurance as a proxy for climate-risk insurance, a Fed staff [study](#) finds that the decoupling of rates and risk raises moral hazard and causes policy-holders in lower-risk and less restrictively regulated states to subsidize those in riskier states, where rates have been outpaced by losses.
- **Yellen Highlights Need for Crypto Reg at Racial Equity Roundtable** - At a Treasury roundtable on racial equity and economic inequality, Treasury Secretary Yellen reiterated the importance of the cryptoasset standards [recommended](#) by the Financial Stability Oversight Council.
- **Fed Sets Supervisory Standards for a Non-Traditional IDI Parent** - The *Federal Register* includes the Federal Reserve's final supervisory [framework](#) for DIHCs controlled by insurance companies.
- **Final FHLB Listening Session Brings System Praise, Resistance to Change** - We will shortly provide clients with an in-depth report on the last session FHFA held listening to dozens of views on the future of the Federal Home Loan Bank System.

October 5

- **GOP Demands AG's CBDC Ruling** - HFSC Republicans sent a [letter](#) to Attorney General Merrick Garland demanding a copy of the DoJ's assessment on whether legislation is necessary to issue a CBDC required and due on September 5 by the President's crypto executive order ([see Client Report CRYPTO26](#)).
- **Basel Blesses Counter-Cyclical Buffers** - Following the FSB's [directive](#), the Basel Committee issued a [newsletter](#) on counter-cyclical capital buffers (CCyBs) and a detailed [report](#) on capital and liquidity buffers.

October 6

- **OSTP Establishes AI User Rights, Privacy Protections** - The White House Office of Science and Technology Policy (OSTP) has released a little-noticed AI "[Bill of Rights](#)" that establishes AI user rights and data privacy principles
- **OCC Tightens Fintech, Payment, Crypto Supervisory Screws** - The OCC released its Bank Supervision Operating [Plan](#) for FY2023, highlighting the Office's supervisory issues based in part on policy considerations

October 7

- **FIO Notes Growing PE Insurance Role, Demurs on Action** - Treasury's Federal Insurance Office issued a [report](#) replete with data and largely devoid of policy.

This Week

Wednesday, October 12

SEC Open Meeting. [10:00 am, webcast]. Matters to be discussed: Whether to adopt certain rule amendments regarding the electronic recordkeeping and prompt production of records requirements for broker-dealers, security-based swap dealers, and major-security based swap participants under the Securities Exchange Act of 1934.

Future Events of Note

No events of note

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](#).

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- **[GSE-100622](#)**: FHA's [request for input](#) on small-dollar loans could mean much for this equality-essential product or little beyond a lot more public debate.
- **[CRYPTO33](#)**: In this report, we build on our [initial assessment](#) of FSOC's conclusion that cryptoassets now pose systemic risk and the Council's recommendations about what should be done to curtail it.
- **[GSE-100422](#)**: Although one witness at the FHFA listening session on the Home Loan Banks took strong issue with their mission and meaning, another who called them the "most successful program of the last hundred years" pretty much summed up today's testimony.
- **[GSE-100322](#)**: Our take on the first two days of FHFA's FHLB "listening session" last week is that battle lines are shaping up much as we expected with the exception of a couple of powerful groups with new ideas about how the System could be put to better use for themselves and/or the public interest.
- **[MORTGAGE121](#)**: The CFPB has asked for views on the extent to which it can facilitate certain refinancing (refi) products it believes enhance economic justice.
- **[GSE-092622](#)**: As will be evident in our forthcoming in-depth analysis, the CFPB's fusillade [last week](#) on mortgage-finance could have far-reaching implications for the entire market based on how far it takes its new campaign for equitable housing finance and whether the market is willing to come along on at least some of the agency's new ideas.
- **[AML136](#)**: Treasury is seeking comments on issues raised by the President's executive order (EO) on digital assets to guide further work curbing illicit-finance and national-security risks in this sector.
- **[REFORM213](#)**: Senate Banking's hearing with big-bank CEOs proved much more combative than HFSC's session yesterday ([see Client Report REFORM212](#)).
- **[GSE-092222](#)**: In this report, we follow our earlier analysis of Treasury's CBDC recommendations and [housing finance](#) with an analysis of another Treasury report in response the President's [executive order](#) focused on the overall construct of cryptoassets in the U.S.
- **[REFORM212](#)**: At today's big-bank oversight HFSC hearing, Committee Democrats focused on each bank's progress on social issues, such as internal diversity, unionization, and historic roles in financing slavery.
- **[GSE-092122](#)**: In this analysis, we drill down in Treasury's high-impact reports to the President on the future of digital assets to identify key considerations and strategic implications for housing finance.
- **[CRYPTO32](#)**: We follow our prior in-depth analysis of Treasury's CBDC and payments report ([see Client Report CBDC14](#)) with a detailed assessment of the Department's [assessment](#) of overall cryptoasset policy.
- **[SANCTION19](#)**: Today's Senate Banking hearing on Russian sanctions showcased bipartisan concern that anti-Russian sanctions have yet to have meaningful impact and doubts about the extent to which oil-price caps will reverse this.

- **[CBDC14](#)**: In this in-depth report, we follow through as promised on our initial analysis of key sections in last Friday's Treasury report on CBDC and changes to the payment system.
- **[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.