



FedFin Weekly Alert

Monday, October 24, 2022

❑ RESOLVED...WHAT WAS THAT AGAIN?

As evidenced again last week at the FDIC meeting ([see Client Report DEPOSITINSURANCE115](#)), structural change is under way in how larger regional banks are required to prepare for an orderly demise. This comes not just from the new FRB/FDIC request for views on what will clearly now be new resolution standards for these companies ([see FSM Report RESOLVE48](#)), but also how large M&A transactions are reviewed even while these standards undergo the lengthy comment-and-approval process kicked off by a release that hasn't yet even hit the *Federal Register*. As we noted in our assessment of the approval of the USB/MUFG acquisition ([see Client Report MERGER11](#)), the FRB and OCC have altered the conditions they impose on super-regionals even if – as in this case – the Fed thinks the resulting company is already resolvable. Our analyses assess the strategic implications of what could be structural rewrites not only of how large regionals are resolved, but also even of how they operate while still in the pink. Key considerations include:

- severability, which could impose operational and/or funding firewalls within banking organizations that undermine the efficiency and profitability of some key business lines or portfolios;
- TLAC/LTD standards, which could impose significant new funding demands on regional banks to create the buffer the FDIC thinks is essential to ensure least-cost resolution without further market consolidation or heightened systemic risk;
- clean-BHC standards, which could increase parent-funding costs; and
- changes to how the FDIC defines a “least-cost” resolution that leads the FDIC to rewrite not only its resolution rules, but also deposit-insurance premiums to adhere to the new policy CFPB Director Chopra pressed at the FDIC meeting’s discussion of new, higher DIF premiums. We will shortly provide clients with an in-depth analysis of this high-impact rule.

Headlines From the Past Week’s Daily Briefings

October 17

- **FRB KC: Distrust, Wealth Gap Behind Black Consumer Crypto Appeal** - A new [article](#) from the Federal Reserve Bank of Kansas City reviews multiple factors that contribute to cryptocurrency’s appeal to Black consumers, an issue initially highlighted by Karen Petrou in an op-ed in [September of 2021](#).

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- **CFPB Uses Enforcement Action to Press Payment-System Digital, Fee, Safety, Fairness Standards** - Using an enforcement action against [ACTIVE Network](#), CFPB Director Chopra [emphasized](#) that this case epitomized broader Bureau concerns.
- **Treasury's FIO Seeks Input On Climate-Related Data Collection** - Taking further action in response to the President's Executive Order on Climate-Related Financial Risk ([see FSM Report GREEN8](#)), Treasury's Federal Insurance Office [requested](#) comment on a proposed data collection regarding current and historical underwriting data on homeowners' insurance from property and casualty insurers to assess climate-related financial risk.
- **HFSC Republicans Push Yellen to Support IFI Nuclear Energy Funding** - In light of recent energy shortages in Europe, Ranking Member McHenry (R-NC) and Rep. Hill (R-AR) sent a [letter](#) to Treasury Secretary Yellen urging her to support the European Bank for Reconstruction and Development and other IFIs financing nuclear energy projects.

October 19

- **CFPB Brings Older Adults Into Fair-Fee Focus** - Following [enforcement action](#) and furthering its "fair-fee" policy agenda ([see FSM Report CONSUMER38](#)), the CFPB published an [Issue Brief](#) on overdraft fees and economically-insecure older adults.
- **HUD Advances LIBOR Replacement As Deadline** - Following its ANPR on replacing [LIBOR](#), HUD published a proposed [rule](#) to remove LIBOR as an approved index for forward ARMs and reverse mortgages, replacing it with SOFR.
- **House Republicans Question PayPal's Content Fine Mistake** - Following [revelations](#) that PayPal had temporarily imposed a penalty fee on certain content, HFSC Ranking Member McHenry (R-NC), Energy and Commerce Ranking Member Rodgers (R-WA), and Reps. Emmer (R-MN) and Griffith (R-VA) sent a [letter](#) to PayPal CEO Dan Schulman requesting more information about PayPal mistakenly updating its Acceptable Use Policy to include a fine for sharing "objectionable" messages on the platform.
- **Fed Study Finds Little Evidence of Discrimination in Mortgage Lending** - A new Fed [study](#) on racial bias in mortgage lending finds little evidence of discrimination, concluding instead that disparities in observable applicant risk explain most racial denial disparities.

October 20

- **Fed Staff Study: Climate Risk-Based Capital Impossible for Foreseeable Future** - FRB staff released a stylized [study](#) of one critical climate-risk policy question: the extent to which banks should hold capital against it.
- **FSB Presses for MMF, Open-End Rules; Government-Bond CCPs** - Continuing its NBFI focus ([see Client Report NBFI](#)), the FSB [issued](#) new recommendations to address government-security market illiquidity.

- **Gruenberg Gives No Clue as to Timing, Content of Inter-Agency Crypto Guidance** - In [remarks](#), Acting Chairman Gruenberg reiterated the risks laid out in the FSOC digital asset report ([see Client Report CRYPTO33](#)), repeated warnings against misrepresenting FDIC deposit [insurance](#), and announced forthcoming interagency crypto guidance without providing any details or timeline.
- **Bipartisan Senators Press Secondary Sanctions for Enactment** - Sens. Toomey (R-PA) and Van Hollen (D-MD) [released](#) a readout of a conversation with the Ukrainian Ambassador on the upcoming G7 Russian oil price cap, positioning their oil sanctions amendment for inclusion in the National Defense Authorization Act (NDAA) in light of the Ambassador's [support](#) for it.
- **Warren Calls for Stronger, More Transparent CFPB Remittance Rule** - Joined by four Senate Democrats, Sen. Warren (D-MA) [sent](#) a letter to CFPB Director Chopra asking that the agency strengthen its remittance rule to ensure greater transparency for exchange rates and fees it calls "hidden" and "harmful."

October 21

- **Ginnie Gives Ground on Controversial RBC Requirements** - Following its [long-delayed](#) release of eligible seller-servicers standards with FHFA, Ginnie Mae [announced](#) that it is extending by one year its mandatory compliance date for the new risk-based capital standards.
- **BIS Unveils Two-Tier CBDC Prototype** - Reflecting the BIS' preferred two-tier CBDC structure ([see Client Report CBDC6](#)), the BIS announced the [launch](#) of a prototype two-tier retail CBDC called Aurum comprised of a wholesale interbank system and a retail e-wallet.

This Week

Wednesday, October 26

SEC Open Meeting. [10:00 am, webcast]. Matters to be discussed: The Commission will consider whether to adopt final rules to implement of Section 10D of the Securities Exchange Act of 1934; whether to adopt rule and form amendments that would require open-end management investment companies to transmit concise and visually engaging annual and semi-annual reports directly to shareholders that highlight key information for investors; whether to amend the advertising rules for registered investment companies and business development companies; whether to propose a new rule under the Investment Advisers Act of 1940 to establish minimum and consistent oversight requirements for registered investment advisers that outsource certain services or functions to service providers; and whether to propose amendments to related recordkeeping and Form ADV reporting requirements.

Future Events of Note

Tuesday, November 8

Treasury's OFR Financial Research Advisory Committee Open Meeting. [10:00 am, webcast]. Matters to be discussed: inflation, decentralized finance, and the potential financial stability implications from growth in digital asset markets.

Wednesday, November 9

FDIC Systemic Resolution Advisory Committee Meeting. [9:00 am, FDIC Board Room]. Matters to be discussed: a discussion of a range of issues and developments related to the resolution of systemically important financial companies; however, the agenda may be subject to change.

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](#).

- **RESOLVE48**: The FRB and FDIC have moved beyond the resolution-planning requirements mandated in the Dodd-Frank Act then implemented over the years to what could be a new resolution regime for banking organizations considered category II or III companies under the inter-agency tailoring rules.
- **MERGER11**: [As promised](#), this analysis focuses on the [OCC](#) and [FRB](#) approvals of the acquisition by U.S. Bancorp of MUFG's Union Bank in California.
- **DEPOSITINSURANCE115**: The FDIC board today voted 3-0 to increase DIF assessment rates by 2bps, finalizing its proposal ([see FSM Report DEPOSITINSURANCE114](#)) and rejecting industry arguments on grounds that a small DIF premium increase now would make a more damaging procyclical assessment increase under adverse economic conditions less likely.
- **CRYPTO34**: Speaking for global banking, securities, and insurance regulators, the Financial Stability Board has taken its firmest stand to date on cryptoassets and outlined high-level and often principles-based global standards to govern them going forward.
- **INTERCHANGE11**: Leaving its interchange-fee restrictions intact – at least for now – the Federal Reserve has finalized its proposal expanding on its existing requirement that all debit- card transactions must be enabled for processing on at least two unaffiliated payment-card networks for card-not-present transactions.
- **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.