FedFin Daily Briefing

Monday, November 7, 2022

Toomey Calls for More Fed Transparency

Sen. Toomey (R-PA) continued Republican demands for still more Fed transparency, sharply criticizing the Fed's Friday proposal to provide some transparency into which institutions are granted master accounts. Instead, he calls for a public database that also lists institutions that are denied access, citing the FDIC database on deposit insurance applications and the OCC database on charter applications as models the Fed should emulate. Depending on the outcome of the midterms, continued GOP concerns about Fed governance could lead to legislation in the next Congress that might go as far as the Loomis-Gillibrand bill (see FSM Report **CRYPTO28**) to open the payment system and eliminate Fed discretion. We will shortly provide clients with an in-depth analysis to the Fed's effort to meet its GOP critics half-way.

Sweeping CFPB Fee Restrictions Now Effective

The *Federal Register* today includes the CFPB's circular on Unanticipated Overdraft Fee Assessment Practices and a bulletin now effective on Unfair Returned Deposited Item Fee Assessment Practices. As noted (see FSM Report **OVERDRAFT11**), the most immediate implication of these edicts is a ban on blanket rejected deposit fees and further constraints on overdraft fees, although the rationale in these orders is likely to carry over to a pending agency rulemaking on credit-card fees (see FSM Report **CREDITCARD35**) and possible initiatives related to remittances and even debit- or credit-card interchange fees (see FSM Report **INTERCHANGE11**).

CFPB Advances Bigtech Market Power Campaign

Continuing its campaign against bigtech's market power, the *Federal Register* today includes the CFPB's notice and request for comment on what fees bigtech payment operators levy on users for violations of acceptable use policies and whether their policies include provisions to restrict user platform access. In addition to direct questions, the notice also asks whether bigtechs will leverage their financial and geolocation data to rent-seek, coerce small businesses into participating on their platform, and plan to manage user complaints and maintain consumer protections. Comments are due by December 7.

Fed Staff Paper Tries To Gauge Social Welfare Impact Of Liquidity, Capital Regs

A new Fed staff study attempts to lay out the social costs and benefits of large-bank liquidity and capital regulation. A ten percent hike in liquidity rules is found to result in a permanent consumption loss of 0.02 percent; a comparable capital-requirement increase leads to a consumption loss of 0.2 percent and a move to restrictive narrow banking leads to an order-of-magnitude drop in consumption of 2.4 percent. However, we are at a loss to understand how these calculations address more than some macroeconomic consequences of hypothetical regulatory constructs not only because social welfare depends on many factors other than consumption, but also because the study does not appear to have fully understood how current liquidity and capital rules work. It notes for example that the LCR requires banks to hold large amounts of Treasury obligations, reaching conclusions about the Treasury market that are not then clearly factored into its overall conclusions. However, as clients well know, the LCR (see FSM Report **LIQUIDITY17**) includes other high-quality liquid assets that offset liquidity risk that also have significant structural and consumer implications. Similarly, the paper's understanding of the capital rules appears to encompass only a general understanding of bank leverage, not the interplay of all the rules that then lead to a binding capital requirement for each large banking organization. Still, the paper is an effort in a little-studied area we think warrants considerably more attention; to date, there is no social-welfare impact work of which we are aware on liquidity regulation and the overall regulatory construct and the thrust of capital-impact work focuses principally on credit availability.

Warren Continues Campaign Against Wells Fargo, Zelle

Sen. Warren (D-MA) today continued her campaign against Zelle by sending letters to its parent company and Wells Fargo, taking particular aim at what she deems the latter's failure to provide adequate claims and reimbursement data and labelling responses to previous letters "insulting." Highlighting Wells Fargo's "uniquely poor" Zelle record compared to other banks that provided comparable data following a Senate Banking hearing in which she grilled big-bank CEOs on this topic (see *Client Report* **REFORM213**), Sen. Warren's letter reiterated the finding of her report and demands that Wells Fargo and Zelle provide more satisfactory answers to her questions by November 21.

Warren Denounces Fed "Culture of Corruption"

Sen. Warren (D-MA) today also continued her campaign against Chairman Powell, sending him a letter alleging "another set of egregious and embarrassing ethics breaches." Describing the Fed as having a "culture of corruption," the senator also assaults Mr. Powell on what she calls his "unwillingness or inability" to address it. The latest letter also expands Sen. Warren's concerns from senior-official trading also to the extent to which Fed officials participate in trade-association meetings behind closed or costly doors, demanding answers to an array of questions on these incidents, Fed remediation, and overall ethics policies by November 21. This increasingly furious inquiry also describes the Fed as endangering its "vaunted independence," making clear that Sen. Warren intends a full-bore attack on the central bank at a time when her denouncement of its monetary policy is gaining additional adherents.

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.

- **SYSTEMIC94:** As we noted Friday afternoon, the Federal Reserve then released its semi-annual financial-stability report in an effort not only to comply with its protocols, but likely also to attract as little attention as possible, with the release and even the report saying only as much about growing risk as the Fed thinks is essential to preserve its credibility.

- **GSE-110722:** In its latest financial-stability report, the Fed is at pains to provide dozens of pages of helpful data with the few systemic-risk conclusions the Board ventures couched in careful prose designed to assure critics that the Fed knows well what's going on without expressing any views that might suggest serious trouble looms or hint that any of what it surveys will alter the Fed's course in terms of monetary policy, regulatory actions, or systemic considerations.

- **DATA3:** Beginning a long-awaited rulemaking process on the extent to which consumers have rights to their own data and how these rights may be exercised, the CFPB is seeking views on an array of ideas and questions to guide future action.

- **OVERDRAFT11:** In conjunction with a Presidential speech and new White House initiative against "junk fees," the CFPB has accelerated its own efforts in this arena with two new policy directives.

- **GSE-102522:** As we noted yesterday, FHFA has decided not only to unbundle second and high-dollar loans from its flat-fee paradigm, but now to do the same for about one in five conventional conforming purchase loans outside these categories.

- **DEPOSITINSURANCE116:** The FDIC has finalized its proposal largely unchanged to raise base Deposit Insurance Fund (DIF) assessments by two basis points (bps) to replenish the DIF by the statutory deadline to reflect deposit inflows that the FDIC no longer expects to be temporary.

- **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.

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