



FedFin Weekly Alert

Monday, January 2, 2023

❑ WARMING UP FOR 2023

The last thing another pandemic-saddled holiday season needed was a nation-wide winter weather event and major airline cataclysm, but a year that brought us the Ukraine war and inflation levels not seen since the 1980's was sure to sign off with a bit of chaos. We hope you were still able to celebrate and aren't missing any luggage. Despite it all, global and U.S. financial regulators advanced many significant issues through the holidays. To help you catch up, here's a round-up of what we sent over the past two weeks sure to come immediately into focus as critical issues advance:

- **LIBOR Transition:** [FSM Report LIBOR9](#) analyzes the Federal Reserve's final rule settling several LIBOR transition questions in favor of a new SOFR-based benchmark. These also incorporate statutory "tenor spreads" designed to reflect the differences between a rate calculated without credit risk in contrast to LIBOR. It remains to be seen if the rule suffices to ensure a smooth transition before next June, when LIBOR is effectively banned.
- **Nonbank Enforcement-Order Registry:** As FedFin's [FSM Report CONSUMER47](#) details, the CFPB ended a high-impact year with another directive against "serial offenders." It has now proposed to create a public registry of certain enforcement actions intended to draw public attention and accelerate enforcement-agency work. Though IDIs and third-party service providers are exempted, the registry covers nonbanks and implicitly captures BHCs, which would be subject to heightened legal and reputational risk. Greater cross-agency information sharing, especially with the FTC and DOJ, will likely result in greater M&A denial on public welfare grounds.
- **CFPB Enforcement Construct:** The Bureau also raised the stakes of its enforcement agenda by taking action against Wells Fargo in an unprecedented \$3.7 billion settlement that has renewed calls to revoke WFC's status as a financial holding company. As our in-depth report notes ([see Client Report CONSUMER46](#)), the consent agreement provides a detailed list of consumer-finance actions in which the Bureau finds the bank to have taken improper action in areas such as auto/mortgage loan servicing and customer deposit account "suspect" practices and account fees.
- **FSOC's Annual Report:** Our Client Report [FSOC28](#) details the Council's 2022 annual report. New vulnerabilities highlighted include a first-time statement about

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BHC risk along with continuing worries about CCPs. The report does not emphasize the calls for systemic attention to cloud-service providers and the payment system identified in CFPB Director Chopra's written [statement](#) for the FSOC, although these issues are noted as potentially problematic.

- **FHFA's New-Product Rule:** FHFA [finalized](#) a variation on Mark Calabria's 2020 new-product proposal that implements a more stringent and transparent GSE new-product approval process. Different processes will be used for new activities and new products, with activities allowed to proceed after prior notice and products requiring prior approval.
- **MBS-Market Risk:** We also closely evaluated the FSOC report's [new focus](#) on MBS-market volatility, its continued concerns over residential-housing price vulnerability, and specific actions addressing longstanding fears about nonbank mortgage originators and servicers, with a new proposal laid out for stress-testing this sector.
- **Crypto Legislation:** In a Senate Banking crypto session following the collapse of FTX, ([see Client Report CRYPTO36](#)) Sen. Warren (D-MA) announced new legislation with Sen. Marshall (R-KS) that would subject crypto firms to AML rules comparable to those applied to banks along with banning crypto mixers. Sen. Lummis (R-WY) also announced that she will introduce a revised version of her stablecoin bill next year with Sen. Gillibrand (D-NY) ([see FSM Report CRYPTO28](#)). Chairman Brown (D-OH) focused on the prospect of additional investigations into failing crypto firms and ongoing work with Secretary Yellen on a government-wide regulatory framework.
- **HFSC and the CFPB:** Our coverage of Director Chopra's appearance before HFSC ([see Client Report CONSUMER45](#)) forecast a fiery year ahead between the Bureau, incoming Chair McHenry (R-NC) and committee Republicans.
- **Climate-Risk Management:** [FSM Report CLIMATE15](#) analyzes the FRB's comment request on proposed climate risk-management standards that would guide banking organizations with over \$100 billion in assets. Tracking the FDIC/OCC proposals ([see FSM Report GREEN12](#)), large banks would have considerable discretion to manage climate financial risk and shape scenario analyses as long as the organization remains transparent about these processes. We expect finalized inter-agency standards in the first quarter of 2023.

Our daily alerts also highlighted issues such as proposals for [Fed reform](#), the ongoing impact of the [FTX debacle](#), and continuing pressure on [P2P-payment products](#). We also noted areas where incoming HFSC Chairman McHenry (R-NC) [staked out](#) some surprising territory for his 2023 agenda on emerging systemic risk. Early in the New Year, an in-depth client brief will pick up all these themes and provide a detailed forecast for action on them.

Headlines From the Past Week's Daily Briefings

December 27

- **FHFA's New-Product Rule Effective Date Set** - The *Federal Register* includes FHFA's final [rule](#) on new Enterprise products now with an effective date of February 27.
- **FRB Atlanta: Political Compromise Essential To Successful CBDC** - A new [paper](#) from Federal Reserve Bank of Atlanta staff finds that technical design features will not resolve difficult policy issues arising from CBDC issuance, concluding instead that political compromises will be necessary for successful introduction of CBDC.

December 28

- **Fed, Treasury Continue Opposition To ICS** - The Fed and Treasury issued the annual [report](#) Congress required in 2018 to ensure that "Team USA" does not undermine state insurance regulators in global FSB or IAIS negotiations.

December 29

No news of note.

December 30

No news of note.

This Week

No meetings of note.

Future Events of Note

No meetings 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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- **[LIBOR9](#)**: Shortly before its statutory year-end deadline, the Federal Reserve finalized its proposal defining legacy-contract benchmarks when there is no clear, practicable contractual fallback rate.
- **[CONSUMER47](#)**: The CFPB is proposing to create a public registry of certain enforcement actions that would initially cover nonbanks (including BHCs) with a goal of drawing public and enforcement-agency attention to what the Bureau's director calls "serial offenders."
- **[GSE-122122](#)**: Finally taking what was supposed to be an "interim" [final rule in 2009](#), FHFA yesterday finalized a variation on Mark Calabria's 2020 new-product [proposal](#).
- **[CONSUMER46](#)**: In this report, we provide an in-depth assessment of the CFPB's unprecedented \$3.7 billion [settlement](#) earlier today with Wells Fargo (WFC).
- **[FSOC28](#)**: [As promised](#), this FedFin report provides an in-depth analysis of FSOC's 2022 [annual report](#), focusing on findings with near-term policy implications.
- **[GSE-121922](#)**: [As promised](#) Friday when FSOC's [annual report](#) was released, we here go into depth on its implications for residential housing.
- **[CONSUMER45](#)**: Despite early warm goodbyes to outgoing Chairwoman Waters (D-CA), GOP members wasted no time trading blows at a fiery HFSC session today with CFPB Director Chopra.
- **[CRYPTO36](#)**: Senate Banking Committee Chairman Brown (D-OH) today backed away from prior statements about crypto legislation, focusing instead on the prospect of additional investigations into failing crypto firms and ongoing work with Secretary Yellen on a government-wide regulatory framework.
- **[CLIMATE15](#)**: Following the pattern set in 2021 by the OCC, the FRB has now proposed climate risk-management standards as high-level principles to guide banking organizations with assets over \$100 billion.
- **[GSE-120522](#)**: Making an important addition to the ongoing debate about Treasury-market liquidity, a new [paper](#) from the Bank for International Settlements provides sobering data on agency MBS liquidity with significant implications not only for secondary-market liquidity, but also primary-market stability.
- **[CRYPTO35](#)**: In the first Congressional review of crypto since the collapse of FTX, Senate Agriculture leadership largely defended the bill they produced, S.4760.
- **[CONSUMER44](#)**: Reviving what it calls "dormant" authority, the CFPB has finalized a proposed "procedural rule" expressly reiterating its right to govern an array of nonbanks and establishing procedures for making supervisory orders public.