



FedFin Weekly Alert

Monday, December 12, 2022

❑ CRYPTO COUNTDOWN

Crypto week will kick off Tuesday with an early-morning Peterson Economic Institute [seminar](#) at which Managing Partner Karen Petrou will preview not just two days of big box-office hearings, but also the outlook for bank regulation in the wake of growing Congressional interest into what the agencies knew, when they knew it, and why they appear to have done nothing about numerous risks with far-reaching policy impact if not also cost to the FDIC – see Karen Petrou’s last [memo](#) for who’s involved and what’s at risk as well as the letter sent late last week by Sens. Warren (D-CA) and Smith (D-NH) [picking up on it](#). We will of course be watching and then analyzing the House and Senate hearings featuring FTX. We know already that both sessions will be a wild ride into territory of considerable danger for Sam Bankman Fried likely of little consequence to the broader policy questions roiling the future of cryptoassets and the actual action Congress and key agencies will take to define it. For all the partisan mudslinging on who took how much from which crypto coffer, we’ll focus on:

- the stablecoin or even crypto bill incoming HFSC Chairman McHenry (R-NC) scopes out;
- the legislation Senate Banking Chairman Brown (D-OH) sketches and what his Ranking Member to be, Tim Scott (R-SC) thinks of it;
- whether Democrats pressure the SEC to move off its chairman’s enforcement-is-enough [stand](#);
- whether the banking agencies will soon sit on the crypto-hearing hot seat and, if so, why; and
- whether any of all this pressure redefines cryptoassets to the point at which the bloom is off a rose already facing a hard, hard winter.

Headlines From the Past Week’s Daily Briefings

[December 5](#)

- **Hsu Reiterates Importance of Credit Risk Management, Diversity** - [Remarks](#) from Acting Comptroller Hsu break no new ground on credit risk management or diversity, two topics discussed before a group of bank risk managers.

[December 6](#)

- **FSB Again Ratifies Focus on Crypto, Climate, Macro Risks** - Following its meeting, the FSB Plenary [announced](#) 2023 priorities to be finalized in January.

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- **FinCEN Targets De-Risking Compliance** - Pointing to possible enforcement actions, Treasury Assistant Secretary for Terrorist Financing and Financial Crimes Elizabeth Rosenberg [noted](#) FinCEN concerns with the extent to which institutions apply a rules-based approach to de-risking rather than a risk-based one, leaving it vulnerable to fast-changing risks and without access to valuable suspicious activity information.
- **Warren, GOP Senators Put Silvergate On FTX Hotseat** - Reflecting at least some bipartisan agreement on the need for new crypto standards, Sens. Warren (D-MA), Kennedy (R-LA), and Marshall (R-KS) sent a [letter](#) to the CEO of Silvergate Bank demanding detailed information regarding its relationship with FTX and FTX affiliates.
- **GOP Threatens Woke Asset Managers With BHC Designation** - The Senate Banking GOP [report](#) on ESG asset management contains an interesting aside about the extent to which passive ownership of banking organizations could make the three largest asset managers de facto BHCs.
- **Brown Fires First Shot in 2023 ILC Wars** - Putting down a market for the next Congress, Senate Banking Chairman Brown and two Democratic colleagues [introduced](#) their bill end bar ILC charters for nonbank parents.

December 7

- **Gensler Stands by Enforcement-Focused Crypto Policy** - In an interview, SEC Chairman Gensler fiercely defended the Commission's crypto enforcement history and attacked crypto exchanges, calling them "casinos" that fought to skirt investor-protection law rather than come into compliance.
- **CFPB Demurs on Key Preemption Decisions** - Signaling an aversion to Federal preemption long sought by consumer advocates, the CFPB has made a preliminary [determination](#) that a New York State law that requires commercial financing disclosures is not preempted by TILA.
- **Dems Demand De-Risking Rewrite** - After a senior Treasury official [chastised banks](#) for failing to de-risk on a risk-based methodology, Sen. Warren (D-MA), Rep. Omar (D-MN), and a group of Democratic Members of Congress [wrote](#) Secretary Yellen, FinCEN, and the banking agencies seeking an update on ways to ensure that AML compliance does not adversely affect Muslim and immigrant communities.

December 8

- **Comment Deadline Set For Fed's Climate-Risk Management Principles** - The [Federal Register](#) includes the Fed's comment request on proposed climate risk-management standards that would guide banking organizations with assets over \$100 billion ([see FSM Report CLIMATE15](#)).
- **Basel: Climate Risk Not Ready for Capital Requirements** - The Basel Committee [published](#) a clarification by way of FAQs to its recently-finalized climate-risk management principles ([see FSM Report CLIMATE14](#)).

- **Warren, Smith Turn FTX Spotlight on Banking Agencies** - As predicted in Karen Petrou's [memo](#), Congressional interest has now turned to the role of banks and their regulators in the FTX debacle.
- **FSB Heightens Focus on CCP, Insurer Resolvability** - After over at least a decade of talking about nonbank resolvability, the FSB [announced](#) that addressing it has become an "urgent" priority.
- **OCC's Risk Inventory Continues To Target Deposit, Operational, Climate, Crypto Risk** - As with its June 23 [report](#) on bank risks, the OCC's December inventory reiterates concerns such as deposit outflow due to rate hikes, operational risks due to cyber-threats and third-party relationships, and compliance and credit risks.
- **Warren, Smith Back DOL Disqualification Proposal** - Tackling yet another "big-bank" concern, Sens. Warren (D-MA) and Smith (D-MN) sent a [letter](#) applauding the Department of Labor's Employee Benefits Security Administration (EBSA) proposal to disqualify banks found guilty of criminal misconduct from being qualified professional asset managers.

December 9

- **Toomey Gets His Fed Payment-Access Transparency** - As we noted ([see FSM Report PAYMENT25](#)), Sen. Pat Toomey (R-PA) strongly objects to the Fed's latest payment-system access policy.
- **FSB Suspends G-SII Designation** - The FSB [announced](#) it would discontinue its annual identification of global systemically important insurers (G-SIIs), instead opting only to publish a list of insurers subject to resolution planning and resolvability assessments in its Annual Resolution Report.
- **Warren, Toomey Fed Transparency Bill Reaches all Financial Regulators** - Heightening bipartisan calls for Fed transparency, Ranking Member Toomey (R-PA) and Sen. Warren (D-MA) introduced [legislation](#) designed to ensure the Fed's accountability to Congress.

This Week

Monday, December 12

Senate Banking Executive Session. [5:30 pm, Capitol Building S-219]. Matters to be discussed: A vote on the following nominations: **The Honorable Martin Gruenberg**, of Maryland, to be a Member and Chairperson of the Board of Directors of the Federal Deposit Insurance Corporation; **Mr. Travis Hill**, of Maryland, to be a Member and Vice Chairperson of the Board of Directors of the Federal Deposit Insurance Corporation; **Mr. Jonathan McKernan**, of Tennessee, to be a Member of the Board of Directors of the Federal Deposit Insurance Corporation; and **Dr. Kimberly Ann McClain**, of Maryland, to be an Assistant Secretary of Housing and Urban Development.

Tuesday, December 13

HFSC Hearing entitled: "Investigating the Collapse of FTX, Part I." [10:00 am, 2128 Rayburn House Office Building]. Witnesses: **John J. Ray III**, Chief Executive Officer, FTX Group.

FDIC Open Meeting. [10:00 am, webcast]. Matters to be discussed: Summary Agenda: The Board will vote on a disposition of minutes of a board of directors' meeting previously distributed and summary reports of actions taken pursuant to authority delegated by the Board of Directors. Discussion Agenda: The Board will discuss memoranda and resolutions concerning the Proposed 2023 FDIC Operating Budget; a Notice of Proposed Rulemaking on FDIC Official Sign and Advertising Rule and a Rule Relating to False Advertising, Misrepresentations, and Misuse of the FDIC's Name and Logo; and Amendments to the Guidelines for Appeals of Material Supervisory Determinations.

Senate Banking Subcommittee on Securities, Insurance and Investment Hearing entitled: "Examining How Capital Markets Serve Diverse Entrepreneurs and Investors." [2:30 pm, Dirksen Senate Office Building 538]. Witnesses: **Mr. Gilbert Andrew Garcia**, CFA, Managing Partner, Garcia Hamilton & Associates, L.P.; and **Mr. Thomas Quadman**, Executive Vice President, Center for Capital Markets Competitiveness, U.S. Chamber of Commerce.

Wednesday, December 14

HFSC Hearing entitled: "Consumers First: Semi-Annual Report of the Consumer Financial Protection Bureau." [10:00 am, 2128 Rayburn House Office Building]. Witnesses: **The Honorable Rohit Chopra**, Director, Consumer Financial Protection Bureau.

Senate Banking Hearing entitled: "Crypto Crash: Why the FTX Bubble Burst and the Harm to Consumers." [10:00 am, Dirksen Senate Office Building G50] Witnesses: **Professor Hilary J. Allen**, American University Washington College of Law; and **Mr. Ben McKenzie Schenkkan**, Actor and Author.

SEC Open Meeting. [10:00 am, webcast]. Matters to be discussed: The Commission will discuss whether to 1. adopt amendments and new disclosure regarding Rule 10b-51 and amendments to gift reporting on Form 4; 2. propose amendments to update Rule 605 disclosure for order executions in national market system stocks; 3. propose amendments to Regulation NMS to adopt variable minimum pricing increments for the quoting and trading of NMS stocks, reduce access fee caps, and enhance transparency of better priced orders; 4. propose a new rule under Regulation NMS titled the Order Competition Rule; 5. propose new rules under the Securities Exchange Act of 1934 titled Regulation Best Execution.

Thursday, December 15

Senate Banking Hearing entitled: “The Consumer Financial Protection Bureau’s Semi-Annual Report to Congress” [10:00 am, Dirksen Senate Office Building 538]. Witness: **The Honorable Rohit Chopra**, Director, Consumer Financial Protection Bureau.

Friday, December 16

Financial Stability Oversight Council Open Session. [TBA, webcast]. Matters to be discussed: the transition from LIBOR; the Federal Reserve’s work on climate-related financial risks; and the Council’s 2022 annual report.

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](#).

- **[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.
- **[GSE-112122](#)**: As came out into the open [last week](#), FSOC will finally turn to rewriting the Trump era [rewrite](#) of the Obama Administration’s FSOC protocols regarding systemic financial institutions and activities.
- **[FINTECH31](#)**: As [promised](#), this report provides an in-depth analysis of [Treasury’s report and resulting recommendations](#) to the President’s Competition Council on the impact of new nonbank consumer-finance entrants from a competition, consumer-protection, and financial-stability perspective.
- **[REFORM215](#)**: HFSC today largely focused bank regulators on the same range of questions posed at yesterday’s Senate Banking session ([see Client Report REFORM214](#)).

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- **[REFORM214](#)**: At today's Senate Banking oversight hearing with the banking agencies, Chairman Brown (D-OH) generally applauded the work of regulators, emphasizing the need for tough standards, like-kind rules for bigtech companies, and an inquiry into why depositor interest rates lag Fed rate hikes along lines [posed](#) earlier by Sen. Reed (D-RI); FDIC Acting Chairman Gruenberg concurred, criticizing banks for sluggish rates.
- **[TMARKET3](#)**: Building on our [initial assessment](#), this report goes in-depth into the Treasury assessment of the market for its obligations and reforms necessary to avert another dash for cash.
- **[NBF12](#)**: As [promised](#), this FedFin report provides an in-depth analysis of the FSB's latest policy on [nonbank financial intermediation](#).