



# FedFin Weekly Alert

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Monday, December 19, 2022

## ❑ CRYPTO GETS LUMPS OF COAL FROM CONGRESS

As we detailed last week, the [House Financial Services Committee](#) and Senate Banking tackled not just FTX's meteoric plunge, but also policies to respond to it and broad problems across the cryptosphere ([see Client Report CRYPTO36](#)). Although nothing substantive will happen regarding new digital-finance law in what's left of this Congress, these hearings lay a strong platform on which new debate on digital-finance reform will proceed early in 2023. Whether there will be new law remains an open question – as we noted, Senate Banking Chairman Brown (D-OH) one day said he wants to craft some and then the next returned to calling on Secretary Yellen to write a raft of new regulations. Still, we think that there will be new law – and not just to ensure AML compliance along the lines included in the [Warren-Marshall bill](#) – because we expect HFSC under incoming Chairman McHenry (R-NC) to advance one that, at least for now, might well pass the bitterly-divided House. To be sure, Democrats will balk at anything that hamstring the SEC, but there is growing agreement on how best to redefine digital finance so it is the innovation Republicans espouse without posing the risks Democrats decry. We will provide clients with a detailed analysis of likely provisions in crypto legislation as it now seems most likely to advance along with continuing regulatory assessments early in the new year.

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## Headlines From the Past Week's Daily Briefings

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### [December 12](#)

- **FTX Hearings Promise to be Explosive but Preliminary** - Our review of HFSC's final staff [memo](#) for the FTX hearing confirms [our forecast](#) that it will be a lengthy, contentious affair at which Sam Bankman Fried will be raked over the coals after current management that has already excoriated him completes its testimony.
- **HFSC Previews Chopra Hearings** - In addition to high-profile crypto hearings, both HFSC and Senate Banking will also have lively sessions with CFPB Director Chopra as he presents his agency's [semi-annual report](#).
- **CFPB Again Targets Repeat Offenders in Nonbank Registry Proposal** - Taking another [shot](#) at repeat offenders, the CFPB [proposed](#) requiring certain nonbank financial firms to report any agency or court orders, which would then be incorporated in a public data registry to create a comprehensive and easily accessible information equivalent to that readily to be found on banking organizations.

### [December 13](#)

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- **Glimmers of 2023 Policy Emerge in HFSC FTX Autopsy** - As [anticipated](#), the HFSC session fixated on the intricacies of FTX's bankruptcy and former CEO Sam Bankman-Fried's arrest.
- **FDIC Again Targets False Advertising, Logo Usage** - Moving beyond its last effort at ending misrepresentation of deposit-insurance status ([see FSM Report DEPOSITINSURANCE112](#)), the FDIC Board [voted](#) voted unanimously to issue for public comment a proposed modernization of how the FDIC logo is to be displayed and expand on prior efforts to block crypto firms from implying that they are insured.
- **Gruenberg, FDIC Nominees Set for Confirmation** - As anticipated, Senate Banking confirmed the Administration's slate of FDIC directors, positioning them for approval before adjournment and thus giving the agency a full board for the first time in years.

### December 14

- **Basel Blesses Basel III** - In its own version of a holistic review, the Basel Committee [pronounced](#) pronounced itself satisfied with the post-GFC regime.
- **FSB Advances Preliminary OEF Reforms** - In its latest [policy conclusions](#) on open-end funds (OEFs), the Financial Stability Board praises its [2017 policies](#) as a success but then goes on to describe the sector's liquidity risk as still so high as to warrant new global standards.

### December 15

- **FinCEN Advances Beneficial-Ownership Privacy Constraints** - Following its [finalization](#) of the beneficial ownership reporting rule, FinCEN [issued](#) a notice of proposed rulemaking that would clarify how beneficial ownership information (BOI) must be acquired, used, and stored.
- **Chopra Defends Nonbank Repeat-Offender Registry, Confirms Zelle Watch-and-Wait** - The Senate Banking hearing repeated much of what HFSC and Director Chopra said yesterday ([see Client Report CONSUMER45](#)), with Democrats lauding the Bureau and Republicans condemning it for politicization, poor administrative process, and an unconstitutional construct.
- **Comment Deadline Extended For Controversial DSIB-Resolution Standards** - Reflecting continuing controversy, the Federal Reserve Board and FDIC [announced](#) that they will extend by one month the comment deadline for their ANPR on large bank resolvability standards.

### December 16

- **GHOS Presses Speedy Bank-Crypto Capital Standards** - Basel's governing body, the Governors and Heads of Supervision, [endorsed](#) the Committee's planned work schedule.
- **Fed Finally Finalizes LIBOR Transition Regs** - Narrowly ahead of its year-end statutory deadline, the Federal Reserve [issued](#) a final version of its detailed proposal ([see FSM](#)

[Report LIBOR8](#)) to implement the LIBOR Act's provisions on replacement rates for existing contracts without fallback language ([see FSM Report LIBOR7](#)).

- **Regulators Highlight P2P, Crypto, NBF1 Risks at FSOC Meeting** - Although most of the FSOC's discussion of the LIBOR transition and climate risks was perfunctory, comments on the now-released 2022 Treasury annual report were not.
- **McHenry, Davidson Point to Forex-Clearing Systemic Risk** - Picking up a recent BIS [report](#) finding at least \$65 trillion at risk in off-balance sheet foreign-exchange clearing, incoming HFSC Chairman McHenry (R-NC) and the top Republican on the panel's fintech task force, Rep. Warren Davidson (R-OH), [called on](#) Fed Chairman Powell and Secretary Yellen to investigate what they consider a looming risk to U.S. financial stability.
- **Chopra Presses Cloud-Service Provider, Stablecoin Systemic Designation** - CFPB Chairman Chopra's written [statement](#) for the FSOC meeting is considerably different than the oral one described in our earlier client alert.

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### This Week

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No meetings of note.

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### Future Events of Note

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No meetings of note.

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### Recent Files Available for Downloading

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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](http://www.fedfin.com) or clients may obtain the reports/analyses by e-mailing [info@fedfin.com](mailto:info@fedfin.com) giving the requested item name, firm, and e-mail address. To learn more about *GSE Activity Reports*, click [here](#).

- **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

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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.