FedFin Daily Briefing

Thursday, December 1, 2022

FDIC, FRB-NY Highlight AOCI Losses

In remarks accompanying the banking-sector 3Q report, Acting FDIC Chairman Gruenberg noted that unrealized losses on AFS/HTM securities now total $690 billion, up 47 percent from just the second quarter. This issue is also highlighted in remarks today from the head of supervision at the Federal Reserve Bank of New York, but neither she nor Mr. Gruenberg indicates if the agencies plan any action in this arena. Given the changes under the tailoring rule (see FSM Report **SIFI34**), capital consequences of unrealized losses are now applicable only to the very largest banks. However, Mr. Gruenberg notes that some banks may be forced to sell securities and thus realize losses. Mr. Gruenberg also cited numerous other downside risks of concern (e.g., inflation, rising rates, macro weakness), with banks likely forced by market pressure to begin to increase deposit rates (said to have gone of 34 bps in the third quarter versus 65 bps hike in loan yields). The number of problem banks rose by two in the last quarter but the deposits they held dropped by $5.7 billion. Mentioning the FDIC's recent DIF-premium hike (see FSM Report **DEPOSITINSURANCE116**), data today showed a small rise in insured deposits regardless of uninsured-deposit outflows.

Brown Talks Civil Rights, GOP Attacks CFPB

Although Chairman Brown (D-OH) used today's Fair Lending hearing to renew discussion of his 2020 legislation bringing financial institutions under the Civil Rights Act (see FSM Report **FAIRLEND9**), most of the focus at the session was on the CFPB. Chairman Brown staunchly defended the Bureau as a key protector of minority rights, but Ranking Member Toomey (R-PA) argued that its UDAAP policy (see FSM Report **CONSUMER39**) is based on disparate impact theory rejected in the courts. No other Republicans attended, with Sens. Van Hollen (D-MD) and Warner (D-VA) using some of their time to debate the location of the FBI headquarters. They also discussed CDFIs and MDIs, noting the need for guardrails as interest rates rise. Sen. Van Hollen also raised concerns over fintech loans, noting they are not covered by the bank regulators and do not fall under CRA. Sen. Menendez (D-NJ) called out Wells Fargo for its fake interviews scandal, while Sen. Warren (D-MA) defended the CFPB's UDAAP theory and censured Wells, JP Morgan, and Bank of America for discriminatory practices. Signaling a House GOP line of attack against the CFPB, Rep. Byron Donalds (R-FL), who was a witness today, strongly supported Sen. Toomey's views on disparate impact theory and unaccountability.

House Panel Blasts Fintech PPP Practices, Seeks Investigation

A new report from the Select Committee on the Coronavirus investigating the role of fintechs in PPP fraud concludes that fintechs failed to implement appropriate oversight and fraud-prevention strategies despite accruing "massive" profits from administration fees. It thus recommends SBA and Congressional consideration of future fintech eligibility for federal lending programs and that any expansion of SBA programs to unregulated lenders or agents involve greater agency oversight. The report takes specific focus on fintechs including Womply, Blueacorn, Kabbage, and Bluevine and their lending partners for failing to implement sufficient fraud-detection systems, arguing that a lack of oversight and regulation created disincentives for strong fraud-prevention controls. It also concludes that federally-regulated bank partners likely reduced the scope of fraud for some fintechs. Subcommittee Chairman Clyburn (D-SC) has also requested additional investigation of several fintech companies by SBA, SBA OIG, and DOJ.

Barr Talks Even Tougher on Bank Capital Rewrite

Although Vice Chairman Barr today confirmed statements to the Senate Banking Committee (see *Client Report* **REFORM214**) that his holistic-capital review is under way without any immediate conclusions, he also emphasized that it will ensure that ample capitalization is sufficient for severe stress and creates incentives for prudent lending. Current capital levels are, he said, at the low end of what research suggests they should be. Without providing more insight into timing beyond traditional action during the early part of next year, Mr. Barr said that no changes will be made to capital requirements without public notice and comment. Still, Mr. Barr also made it clear that leverage-ratio changes are possible in concert with action to implement the Basel "end-game" rules. His speech also includes a detailed defense of stress testing, noting that the SCB is now being reviewed to determine the extent to which it could capture a wider range of risks and inter-connections through multiple standards running concert with bank internal models. Mr. Barr also defended TLAC, with the virtues attributed to long-term debt buffers doubtless influencing the Fed's views on the pending large-bank resolution guidance (see FSM Report **RESOLVE48**). Although the migration of key activities from banks to nonbanks warrants monitoring, it is not, Mr. Barr says, a rationale for lower capital requirements. He also rejects suggestions that bank performance in the pandemic crisis demonstrates resilience that warrants capital relief, noting the important role government support played at the time averting risk in key sectors and the financial system.

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.

- **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.

- **NBFI2:** As promised, this FedFin report provides an in-depth analysis of the FSB's latest policy on nonbank financial intermediation.

- **PAYMENT26:** Although the Fed characterized its final payment-system access guidelines as "transparent," FedFin's analysis and other assessments concluded that the Federal Reserve Banks retained considerable discretion to pick and choose those granted master accounts and there would be no ready way to identify which institutions had or lost this essential status for any provider of retail or wholesale deposit-taking services or their equivalent.

- **GSE-110822:** In its latest blast on racial equity, the Treasury Department's Office of Economic Policy has issued a blog post cataloguing racial disparities in residential-mortgage finance.

- **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.

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