



FedFin Daily Briefing

Wednesday, December 7, 2022

Gensler Stands by Enforcement-Focused Crypto Policy

In an interview today, 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. Rebuking [calls](#) from Sen. Warren (D-MA) for increased SEC crypto attention, he argued that the Commission is committed to regulating crypto securities and has already filed an abundance of enforcement actions. Noting that the Commission has sufficient authority under current law, Mr. Gensler called for crypto exchanges to register with the SEC and abide by existing securities laws protecting investors against conflicts of interest and comingling of customer funds. He also criticized vertical integrations, picking up on an issue highlighted in recent Treasury reports ([see Client Report CRYPTO33](#)).

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. It has also reached an initial decision that similar laws in California, Utah, and Virginia are also not preempted, reflecting the importance of this decision. While this is based on the laws in question and differences between commercial and consumer law, the CFPB's preemption approach has broad implications for other areas. Comment is due by January 20.

Dems Demand De-Risking Rewrite

A day 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. Noting that a recent increase in sanctions also has led banks to de-risk charities, the Members point to resulting humanitarian problems due to lost aid. Recipients of the letter are asked to detail how policies have been crafted to prevent wholesale de-risking and what is or will be done to enforce them. They also demand a report to Congress required in the 2021 defense authorization legislation pressing de-risking reform and ask the banking agencies to bar regtech applications that may adversely select immigrant and Muslim customers. Responses are due in thirty days.

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](#)).
- **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](#).
- **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.