



FedFin Weekly Alert

Monday, January 23, 2023

❑ BACK AT IT, BUT WHAT IS IT?

With the Senate convening this week for the first time in 118th Congress and the House back in town, the U.S. Congress will begin to get down to work. Traditionally, the interregnum between reconvening in mid-January and actually doing anything meaningful lasts until the President's State of the Union Address. This is set for February 7, giving Congress another three weeks or so to posture without the need to prove any sort of purpose.

What might this be when it's finally time to legislate? Nothing since we posted it leads us to reconsider the 2023 forecasts in our [brief](#) when it comes to financial-policy questions such as crypto, capital, and the U.S. central bank. And, as before, we think the bulk of consequential, strategy-defining action will come from federal regulators on questions such as capital and consumer-data standards.

We also said that Congress will be as focused on itself as it always is, looking for ways to score constituent points not only on high-profile "cultural" issues, but also on financial and market questions that can be credibly subsumed in the jurisdictions of the House Financial Services and Senate Banking Committees. Here, the debt ceiling looms large and we look for near-term hearings on how disruptive it will be to financial markets if the ceiling is not quickly elevated. Senate Banking Chairman Brown (D-OH) is facing perhaps his toughest race ever and he will also bring other topics to the fore if he thinks it serves his political interests. Picking up Acting Comptroller Hsu's recent big-bank break-up [policy](#) might be just the right thing, helpful as it will be to finally winning Mr. Hsu confirmation for a full term and putting big banks in a most unflattering light.

In short, it will be lively – look for in-depth reports, alerts, and advisories and let us know when you need a forecast refresher.

Headlines From the Past Week's Daily Briefings

[January 17](#)

- **FinCEN Opens Beneficial-Ownership Reports to Public Comment** - Likely furthering its effort to garner greater public buy-in for its beneficial ownership information (BOI) [standards](#), FinCEN is now [requesting](#) public comment on these reports.

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- **CFPB Presses Consumers, Employees to Action** - In a [post](#), the CFPB double-downed on its recent precedent-setting enforcement action against Wells Fargo ([see Client Report CONSUMER46](#)).
- **Breaking Up Won't Be Hard to Do** - In a high-impact [speech](#), Acting Comptroller Hsu expressly threatens that the OCC will not stop at the kind of growth restrictions imposed on Wells Fargo ([see Client Report CORPGOV26](#)) or the CFPB's fines ([see Client Report CONSUMER46](#)) if a large bank is a repeat offender in safety-and-soundness arenas.
- **Fed Begins Big-Bank Physical/Transition Financial Climate Risk Analysis** - The Fed [announced](#) a two module structure for its upcoming GSIB pilot climate scenario analysis, kicking off a process to identify the data, governance, and processes banks need to manage the financial risks related to physical and transition climate events.

[January 18](#)

- **FSB Pledges Further Work on Bank NBFI Capital Exposures, MMFs, OEFs** - The FSB [published](#) an update on its non-bank financial intermediation (NBFI) reforms, finding that further progress is needed in implementing capital requirements for bank exposures to investment funds and large exposures.
- **CFPB Tells Examiners To Look At Servicer Fees, Foreclosure Process** - The CFPB [released](#) updated Mortgage Servicing Examination Procedures reflecting newly identified consumer risks since its 2016 update as well as pandemic-era servicing changes.
- **FRB-NY: Small Banks Behind Recent Discount Window Lending Spike** - A new [post](#) from FRB-NY staff looks at why discount-window lending has recently increased, providing data that make it still more interesting that Silvergate chose emergency support from Home Loan Banks, [not the Fed](#).

[January 19](#)

- **CFPB Circular Tightens UDAAP Grip On Negative-Option Marketing** - Building on recent [enforcement actions](#) targeting "digital dark patterns," the CFPB issued a [circular](#) taking aim at negative-option programs that it believes mislead consumers into unwanted, automatic subscription renewals.

[January 20](#)

- **Waller Throws Fuel on IOR-Recapture Fire** - The *American Banker* [reports](#) that FRB Gov. Christopher Waller answered a question by saying that the Fed does not need the \$2 trillion or so housed in the ONRRP to conduct monetary policy.

This Week

Wednesday, January 25

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SEC Open Meeting. [10:00 am, webcast]. Matters to be discussed: The Commission will consider whether to propose a new rule to implement Section 27B of the Securities Act, as added by Section 621 of the Dodd-Frank Wall Street Reform and Consumer Protection Act.

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](#).

- **CONSUMER48**: Building on its proposed nonbank registry related to enforcement orders, the CFPB is now also proposing a public registry requiring posting of provisions in consumer-finance contracts the agency believes threaten consumer legal or free-speech rights when issued by supervised nonbanks.
- **GSE-011923**: We will shortly send clients an in-depth analysis of the CFPB's latest controversial [proposal](#) which would establish a public registry on which supervised nonbanks would file a lot of data on any form contracts they require which includes covered provisions the Bureau thinks unfairly and even dangerously lead consumers to abandon important protections.
- **CRYPTO38**: Karen Petrou's [memo](#) earlier this week and her comments to the [American Banker](#) about Silvergate have sparked many client questions.
- **GSE-011123**: As the Fed has hiked interest rates, mortgage rates have of course also gone up, sending a sudden chill through the residential market and putting home ownership even more out of reach for all but those for whom the home equity they still have after prices correct suffices for long-term wealth accumulation.
- **GSE-010523a**: FHFA's latest [scorecard](#) for Fannie, Freddie, and CSS reiterates Director Thompson's overarching objectives for Fannie and Freddie in the new era of equitable finance, CRT, and capital compliance.
- **GSE-010523**: As we previously [noted](#), the U.S. banking agencies will finally, finally, finally get around to proposing their version of the Basel IV capital rules more recently dubbed the "end-game" standards.
- **CRYPTO37**: The Basel Committee has finalized its second try at global standards governing bank cryptoasset exposures, laying out a path that U.S. agencies plan quickly to implement even as Congress continues to wrestle with this fast-changing sector.
- **DEPOSITINSURANCE117**: In the wake of increasing instances in which customers are confused and even misled about the extent to which fintech and cryptoasset holdings are insured deposits,

the FDIC is proposing new standards addressing this problem as well as ways to modernize IDI representations of their own FDIC-insured offerings in branches and through the fast-changing array of retail banking delivery channels.

- **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.