



# *FedFin Daily Briefing*

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Thursday, January 12, 2023

## **OCC Tightens Fair-Lending Review**

Acting Comptroller Hsu took the occasion today of release of a new fair-lending [manual](#) to emphasize the OCC's commitment to ending credit discrimination. This was also a top focus of the agency's recent [annual report](#), and the new manual clearly reflects this with an array of new provisions directing examiners to take a more skeptical and thorough approach to reviews in this arena. Among the changes most likely to have immediate impact are those updating examination-review scenarios and the risks which the agency will assess.

## **McHenry Chairmanship Starts With CFPB Confrontation**

In his first financial-policy action since becoming HFSC Chairman, Rep. Patrick McHenry (R-NC) [today](#) blasted the Bureau and its "reckless" Director for what he described as expanding its authority beyond congressional intent. The target here is the agency's action yesterday to create a nonbank contract [registry](#) as well as the broader registry proposal ([see FSM Report CONSUMER47](#)), but Mr. McHenry clearly links these to his longstanding concerns about the Bureau under Director Chopra ([see Client Report CONSUMER45](#)). Under the rubric of new House rules, we expect HFSC quickly to move to target the Bureau for red-lined administrative restructuring through a new commission charter and to reduce Mr. Chopra's pay to \$1 even though it does not technically fall within the appropriations process. Regardless of these sanctions, the Bureau will continue unchanged absent court intervention because the Senate will not approve any CFPB restructuring and, even were it to do so, President Biden will veto this unless the GOP somehow manages to push Bureau changes in a must-pass bill.

## **FRB-NY Staff Renew Debate Over FBO Liquidity, Market Impact**

A new [post](#) from FRB-NY staff assesses the funding strategies of FBO branches and agencies to judge their current impact setting dollar-liquidity pricing in the U.S. wholesale funding market. Based on data from 2009-2020, the study finds that, unlike U.S. banks, the principal factor determining FBO dollar-liquidity pricing is the spread between the fed funds rate and interest on reserves (IOR). When the supply of reserves is ample, spreads narrow due to the role of cash-rich lenders such as the Home Loan Banks creating, arbitrage advantages for banks that place these loaned funds with the Fed and earn a spread. This form of IOR arbitrage has long been a business in which FBOs have a regulatory advantage by virtue of lower leverage ratios at the parent bank and exemption from the cost of FDIC insurance on assets, including central-bank deposits. Conversely, IOR arbitrage ceases to be profitable when reserves are scarce. As in 2019, market changes in such circumstances can lead to repo-market instability and even crisis, with the post concluding that the marginal role of FBOs setting dollar-liquidity pricing affected the scale of stress at the time. Clients are reminded that the Federal Reserve reached an uneasy compromise on liquidity rules when it finalized tailored standards in 2019 ([see FSM](#)

[Report SIFI34](#)). Now-Vice Chair Brainard strongly advocated for liquidity standards for FBO branches and agencies based on concerns also expressed after the 2008 crisis by then-Gov. Tarullo. The Board has pledged to re-examine this issue and reopen the rule if change is warranted, although when or if it will actually do so given its crowded regulatory agenda is uncertain.

## OFr Cites Heightened Systemic Risk, MMF Worries

In its [annual report](#) on 2021, OFr has concluded that financial stability risks are generally elevated due to macroeconomic tightening, inflation, climate change and volatility in Treasury, crypto, and commodity markets. Interesting in its findings is that, while the SEC's MMF Proposal ([see FSM Report MMF19](#)) could well improve fund liquidity, it may not discourage sudden redemption outflows. Perhaps with the benefit of a bit of hindsight, it also points to the need to monitor crypto contagion risk, specifically noting that high leverage and automatic collateral liquidation in DeFi may amplify volatility. Reflecting broader Treasury concerns, the office warns that declining market sentiment may lead to continuing liquidity challenges in Treasury and short-term funding markets. While siding with FSOC on ongoing climate-risk data challenges ([see Client Report GREEN11](#)), OFr nonetheless notes financial risks in areas such as mortgage securitization in flood-prone areas, climate events hampering ability to repay debt, and physical or transition costs damaging macroeconomic growth.

## DOJ Lands Unprecedented Redlining Settlement

Continuing the Administration's [racial-equity campaign](#), the Department of Justice today [announced](#) an historic settlement with City National Bank. Under the terms of the consent agreement, the bank will pay a \$31.25 million settlement for restitution, with City National outside the scope of the agreement also agreeing to designate \$29.5 million to a loan-subsidy fund for majority-Black and Hispanic Los Angeles neighborhoods and above \$1 million for other community-related outreach. Although an unprecedented settlement to which the bank did not concede wrong-doing, City National cooperated with Justice and in fact agreed not only to the terms noted above, but also to open one new branch in a majority-Black and Hispanic neighborhood and expand its fair-lending footprint. As noted earlier today, the settlement comes at the same time the OCC released a new, tough fair-lending manual. There are as yet no statements on this action from the OCC or CFPB; we will advise clients should these occur.

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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](#).

- **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.
- **CONSUMER47:** The CFPB is proposing to create a public registry of certain enforcement actions that would initially cover nonbanks (including BHCs) with a goal of drawing public and enforcement-agency attention to what the Bureau's director calls "serial offenders."
- **GSE-122122:** Finally taking what was supposed to be an "interim" [final rule in 2009](#), FHFA yesterday finalized a variation on Mark Calabria's 2020 new-product [proposal](#).
- **CONSUMER46:** In this report, we provide an in-depth assessment of the CFPB's unprecedented \$3.7 billion [settlement](#) earlier today with Wells Fargo (WFC).
- **FSOC28:** [As promised](#), this FedFin report provides an in-depth analysis of FSOC's 2022 [annual report](#), focusing on findings with near-term policy implications.
- **GSE-121922:** [As promised](#) Friday when FSOC's [annual report](#) was released, we here go into depth on its implications for residential housing.
- **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.