FedFin Daily Briefing

Thursday, January 26, 2023

Effective Date Set for LIBOR Termination

The *Federal Register* today includes the FRB's final rule Implementing the Adjustable Interest Rate (LIBOR) Act, setting the rule's effective date as February 27. As noted (see FSM Report **LIBOR9**), the final rule settles many LIBOR transition questions in favor of SOFR, leaving numerous complex implementation questions up in the air despite this added certainty. The new framework sets a statutory benchmark for derivatives, consumer loans, housing-GSE contracts, and other legacy contracts without clear LIBOR-replacement provisions and a "determining person" to effectuate them. Despite rate certainty, omissions in the final rule may still leave some litigation risks unaddressed with the clarity sought by financial institutions.

Fed Study Finds Card Rewards Result in $15 Billion Wealth Transfer

A new Federal Reserve staff study finds that credit-card rewards annually redistribute approximately $15.1 billion a year to more financially-sophisticated consumers. This result is likely to weigh heavily into debate later this year if, as we expect, Sen. Durbin (D-IL) reintroduces legislation to force card-routing alternatives to Visa and Mastercard (see FSM Report **INTERCHANGE10**). Banks have pushed back hard on grounds that added card costs will adversely affect popular rewards, but merchants will now counter that these rewards disproportionately affect the wealthy and lower-income households would be best served by lower fees that then permit lower merchant pricing. Banks will of course then point out that lower pricing was not evident after debit-card interchange fees were restricted, but the Fed's study will surely get considerable "air time."

Using what it calls unique FRB data on individual consumers and card terms and interest rates, the paper finds that the wealth transfers from lower- to higher-income households is clearest when viewed by FICO score, not income. The paper attributes these FICO-score differences to varying levels of financial sophistication, noting for example that low-FICO borrowers tend to pay only minimum balances on multiple cards. Despite its focus on FICOs as the most significant indicator, the paper also finds that average net rewards are highest in high-education geographies as well as those with the highest average income and lowest percentage of Black residents. Thus, equality issues remain a concern despite the paper's view that FICO scores principally define reward distribution and that findings refute other "reverse Robin Hood" assessments of card rewards. Banks are found to profit from reward cards across all FICOs, profits are highest for prime and near-prime borrowers in mid-FICO ranges. Interchange-fee income becomes most significant as scores rise, increasing to eighty percent of card revenue at the super-prime FICO level.

ISDA Lays Groundwork for Crypto Rules, Law

The self-regulatory body for global derivatives, ISDA, today released a contractual framework for digital-asset derivatives. These are now likely to be widely adopted by major financial institutions but may not resolve legal-ownership issues when cryptoasset entities use intermediaries or other avenues into global capital markets that obscure contractual rights. ISDA thus plans a paper later this year addressing intermediaries. As ISDA notes, express statutory change is also required, with the association thus also releasing a white paper highlighting the need for legal clarity on crypto's property status. We expect these recommendations to play a major role in pending crypto rules to the extent possible under current U.S. law and also to be reflected in legislation as it is developed this session.

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.

- **CONSUMER49:** Using one of its controversial edicts to set what some consider a new rule, the CFPB has opined that negative-option or "subscription" marketing of consumer-financial products or services may be unfair, deceptive, or abusive (UDAAP) and thus subject to significant sanction for both the provider and any third parties with which it works.

- **GSE-012323:** Under Director Thompson, FHFA's top policy priority is equitable housing.

- **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.

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- **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.

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