



# *FedFin Daily Briefing*

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Friday, January 27, 2023

## **IOSCO Report Calls for More Hedge-Fund Liquidity Data, Studies Continue on MMFs/OEFs**

IOSCO today released its Investment Funds Statistics [Report](#), consisting almost entirely of data on matters such as leverage, portfolio liquidity, and fund exposures. The paper also mentions recent SEC proposals to amend the investment adviser reporting form and to require more frequent portfolio reporting. The report takes no stand on them or most other matters beyond observing that hedge funds have adequate liquidity to meet investor redemptions under normal conditions, but states that more data is needed to assess liquidity under stress. However, IOSCO in forthcoming reports will address OEF liquidity risk.

## **Fed Takes Tough Stand Against Wyoming Crypto Charter**

The Federal Reserve today took two policy-making actions cracking down on non-traditional charters. We will shortly provide clients with an alert and then an in-depth analysis of a [new Fed policy](#) redefining state-member bank charter powers. In addition, the Board [denied](#) Custodia's high-profile application to gain member status. The public rejection – unusual in ordinary cases – reflects the Board's recent, tougher stand on crypto activities under its supervision ([see FSM Report CRYPTO31](#)) along with an inter-agency [statement](#) insisting on rigorous risk-management and governance standards for any digital-asset ventures. In its denial, the Fed notes that Custodia's business model was novel and included activities in an array of untested areas for which its risk-management protocols were insufficient, especially with regard to AML compliance. The order, which has yet to be released, will surely spark complaints from Sen. Lummis (R-WY), who has advanced the Wyoming charter ([see FSM Report CRYPTO28](#)) as not only a valid new form of banking, but also an expression of states' rights. Any legislative efforts to overturn the Fed's decision is unlikely to succeed, leaving the bank only to pursue its ongoing litigation.

## **Fed Not Only Quashes Custodia, But Also Constrains Non-Traditional Charter Powers**

In addition to rejecting Custodia's member application (see prior FedFin alert), the Fed today issued a sweeping policy [statement](#) scuttling efforts to use uninsured state member banks for activities impermissible for state IDIs and, in most cases, those allowed for national banks. We will shortly provide clients with an in-depth analysis of the new policy, which appears to have been approved on a unanimous notational vote by the Board. Going beyond the case-specific issues that quashed Custodia's application, the policy statement indicates that the Fed will presumptively bar state member banks from holding most crypto assets as principal and subject those seeking to offer stablecoins to extensive standards. A prior non-objection letter would also be required for stablecoin

activities. The statement takes effect on the date of publication, perhaps leading Custodia to add to its litigation against the Fed a protest that it is being held retroactively subject to this policy even though, as noted, the Board order denying membership speaks specifically to the bank itself. In our in-depth analysis, we will also note the extent to which this policy statement may adversely affect other non-traditional activities — e.g., fintech partnerships, certain commercial activities.

## White House Expands Crypto Legislative Demands

In a new White House crypto “[roadmap](#),” National Economic Council Director Brian Deese largely reiterated actions such as those by the Fed today and ongoing efforts to block AML and sanctions violations in this volatile sector. However, he also indicated that the Administration will release digital-asset research and development priorities to enhance consumer protection. Mr. Deese also calls on Congress to act on issues such as account segregation, conflicts of interest, transparency, and law-enforcement powers. The Administration also opposes legislation that would facilitate pension fund investments in cryptoassets or cryptoasset access to the regulated financial system.

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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](#).

- **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.
- **[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.