



FedFin Daily Briefing

Monday, January 30, 2023

FDIC Sets New Comment Deadline For Advertising NPR

The FDIC today [extended](#) the comment deadline for its NPR modernizing restrictions on the agency's official sign and logo, advertising statement, and misrepresentations of deposit insurance coverage by 45 days until April 7. As noted ([see FSM Report DEPOSITINSURANCE117](#)), the proposal requires new signage in bank facilities and digital marketing, and expands on the agency's efforts in concert with the CFPB to block crypto firms from implying that funds held by them are insured deposits regardless of where they may then be housed.

Banking Agencies Report No Material Differences in Capital, Accounting Rules

Ahead of efforts later this winter to rewrite large-bank capital [standards](#), the banking agencies today submitted their annual [report](#) to HFSC and Senate Banking assessing the differences between the agencies' accounting and capital standards. The report found no material differences, but several "technical" differences were noted in areas such as differing definitions of a pre-sold construction loan, the explicit requirement for deduction of examiner-identified losses, uniform eligibility criteria for regulatory capital instruments, and applying enhanced supplementary leverage ratio standards either to GSIBs or BHCs with more than \$700 billion in total assets or \$10 trillion in assets under custody.

HFSC Lays Out Initial Action Plan

HFSC Chairman McHenry (R-NC) is moving forward, today announcing [plans](#) for a meeting on Wednesday to set the committees' rules and near-term oversight priorities. We will provide clients with an assessment of the session, which will give conservative Republicans their first chance to indicate if they will challenge Mr. McHenry on the issues raised in recent Tucker Carlson [attacks](#). We also expect the panel's oversight plan to trigger hot, if unsuccessful, debate as Democrats challenge plans to look into issues such as the extent to which financial institutions advance ESG or other initiatives Republicans view as unduly political. The panel will also make more clear the extent to which it will tackle issues such as U.S. financial relations with China and recent operational failures at the New York Stock Exchange. The session will not feature discussion of the HFSC objectives through legislation, which will be determined by the chairman and subcommittee heads at a forthcoming retreat and thereafter as events warrant. The panel has, however, set tentative plans for hearings next week on accredited investors and empowering entrepreneurs as well as on data privacy.

Controversial CFPB Initiatives Advance

The *Federal Register* today includes the CFPB's nonbank enforcement action [registry proposal](#) as well as its [circular](#) regarding negative option marketing practices. As noted ([see FSM Report CONSUMER47](#)), the Bureau's proposal would establish a public registry of certain enforcement actions that would initially cover nonbanks (likely including BHCs) with a goal of drawing public and enforcement-agency attention to what the Bureau's director calls "serial offenders." Comments are now due by March 31. As we also noted ([see FSM Report CONSUMER49](#)), the Bureau's circular determines 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. The circular is now effective.

FHA Expands Loan-Mod Options, Incentives

The FHA today [announced](#) it will extend incentive payments to mortgage servicers that complete COVID-Recovery loss-mitigation options, also releasing several other changes to help struggling borrowers avoid foreclosures regardless of the nature of repayment hardship. These include expanding loss mitigation options to all eligible borrowers, extending the availability of COVID loss mitigation options by eighteen months, and including recipients of Treasury's Homeowner Assistance Fund in the definition of borrowers facing imminent default. FHA is also increasing the maximum partial claim from 25% of a mortgage's unpaid principal balance to 30%, which is the maximum amount permitted by statute.

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.
- **[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.