



FedFin Weekly Alert

Monday, March 6, 2023

❑ GLOVES OFF

When Chairman Powell comes before HFSC and Senate Banking this week, we'll see if FedFin's forecast for [newly-rough going](#) plays out, but all signs say it will. In the lead-up to the midterm, Democrats other than Sen. Warren (D-MA) who weren't all that sympathetic to many Fed actions held their tongues in order to protect a central bank that, for all its putative independence, seemed aligned with Biden Administration statements promoting American prosperity and the near-term chances of reduced inflation. With the 2024 election looking even uglier than the midterm and Republicans in control of the House, Mr. Powell may find himself squeezed hard from both sides of the aisle, taking lots of heat on issues ranging from monetary policy and the debt ceiling to a panoply of Fed regulatory and payment-system decisions along with the pending nomination of a new vice chair. As always, we'll provide clients with an in-depth report at the close of each session, listening for:

- both rhetorical and credible threats to the Fed's independence by way of renewed demands for Taylor-style rules from the right and a progressive mandate from the left;
- Democratic demands for more diversity, with Sen. Menendez (D-NJ) making his displeasure particularly clear;
- more demands from the GOP that the Fed never countenance CBDC now that Treasury [says it might](#);
- more demands from the left for faster action on FedNow along with a retail-focused CBDC;
- accusations from the right that the Fed is promulgating stealth woke policy by way of its risk-management proposal ([see FSM Report CRYPTO40](#)) and [scenario analyses](#);
- whether long-promised bank merger policy is coming and what it will say;
- concerns from the left that the Fed is too soft on crypto, using Mr. Powell's appearance to demand fast action erecting still more barriers between banking and cryptoassets along with better protection for the FDIC in light of Silvergate's still more pressing woes;
- ongoing complaints from the Republicans that the Fed in concert with other banking agencies has another stealth-woke campaign going against crypto companies no matter their legality under federal and state law;
- whether Republicans will bring up interest on reserves and how much they want it for budget-balancing purposes; and

- a lot of pipe-laying from both sides of the aisle about the imminent release of controversial end-game [capital regulations](#).

Headlines From the Past Week's Daily Briefings

February 27

- **FRB-NY: CRA Now Makes No Measurable Difference** - As the banking agencies wrestle with their still-unfinished CRA rule ([see FSM Report CRA32](#)), the Federal Reserve Bank of New York [released](#) a staff report concluding that the law has little to no impact on like-kind household credit in target areas.
- **SCOTUS Re CFPB Has Broad Ramifications** - In a case with significant implications not only for the CFPB, but also other financial agencies, the Supreme Court [agreed](#) to review the Fifth Circuit's decision invalidating CFPB funding via transfers from the Federal Reserve's income rather than annual Congressional appropriation.
- **CFPB Puts A Repeat Offender Out Of Business** - Wielding the hammer Director Chopra claimed when he announced his campaign against [repeat offenders](#), the CFPB [used](#) the powers it argues derive from its authorizing law ([see FSM Report CONSUMER14](#)) to put a nonbank mortgage lender out of business.

February 28

- **CFPB Treads Gingerly on Mortgage-Disclosure Exceptions** - In a notice emphasizing the CFPB's distaste for allowing regulatory exceptions, the Bureau asks for comment on an application for one to which it seems a bit more sympathetic.
- **FDIC Sees Sunny Side of Bank Earnings Data** - In its review of banking-industry fourth-quarter [results](#), the FDIC notes a sharp increase in the gap between bank loan yield and deposit interest costs.
- **Basel Forecasts End-Game Capital Shortfalls** - The Basel Committee [issued](#) its latest monitoring report, finding that large global banks saw capital decreases to pre-pandemic levels even as liquidity ratios continued to improve.
- **Bipartisan China Bills Fly Through HFSC Markup** - As [anticipated](#), HFSC reported five bills to censure China and protect Taiwan, along with bills addressing drug-trafficking financing, biomedical security and bank service company examinations.
- **Democrats Stand Firm versus Privacy Preemption** - Following an orderly and bipartisan start to the HFSC markup, Democrats and Republicans came to verbal blows over the Chairman's data privacy bill.

March 1

- **What's Next For McHenry Privacy Bill** - As we [anticipated](#), HFSC reported H.R. 1165, Chairman McHenry's privacy bill, on a party-line vote of 26-21.

- **CFPB Targets Public-Benefits Finance** - The CFPB published a “[spotlight](#)” examining numerous fees it says “erode” public benefit programs delivered through various financial products.
- **Treasury Sets Out Steps Seemingly Towards A U.S. CBDC** - Following up the President’s executive order on digital assets ([see Client Report CRYPTO26](#)) and Treasury’s subsequent report ([see Client Report CBDC14](#)), Under-Secretary Nellie Liang [outlined](#) next steps leading to the Administration’s decision about CBDC benefits that will strongly guide the Fed’s CBDC final call.

March 2

- **GOP Reiterates Anti-Woke Demands** - At the same time as the Senate passed a resolution overturning the Labor Department’s rule authorizing pension ESG investments, Sens. Rubio (R-FL), Cruz (R-TX), Cramer (R-ND), Cotton (R-AR), Blackburn (TN), and Scott (R-FL) reintroduced legislation (S. 583) to permit the FDIC to terminate the insured status of depository institutions refusing to provide services to Federal contractors.
- **HFSC GOP Reams CFPB Late-Fee Proposal** - Seventeen HFSC Republicans sent a [letter](#) to CFPB Director Chopra strongly protesting the Bureau’s recent NPR targeting credit card late fees ([see FSM Report CREDITCARD36](#)).
- **Gensler Boosts SEC Custody Rewrite** - SEC Chairman Gensler [reiterated](#) and emphasized his strong support for the agency’s proposal to rewrite the rules governing custody services ([see FSM Report CUSTODY5](#)), arguing that they would strengthen safeguards and provide a much-needed expansion to the protections qualified custodians provide.
- **Bipartisan Senators Target Another Crypto Culprit** - Following Sen. Warren’s (D-MA) pledge to introduce bipartisan legislation extending AML protections to crypto firms ([see Client Report CRYPTO39](#)), Sens. Warren, Van Hollen (D-MD), and Marshall (R-KS) sent [letters](#) to the leadership of the crypto platform Binance, alleging that the company built an intentionally opaque corporate structure to circumvent securities and AML laws and facilitate money laundering and sanctions evasion.
- **Brown Demands Branch-Closure Hearings, Merger Policy** - In the midst of what may well be negotiations over the nomination of Michael Hsu as Comptroller and continuing controversies over big-bank mergers, Senate Banking Chairman Brown (D-OH) [wrote Mr. Hsu](#) to reiterate concern over bank consolidation and demand that the OCC grant community-hearing requests related to branch closings.

March 3

- **Senate Dems Demand Bank, Service-Provider Regulation of EWS** - Regardless of recent bank changes to Zelle policy, Senate Banking Democrats sent a [letter](#) to the heads of the banking agencies urging them to examine the customer reimbursement and AML practices of banks using Zelle and for the Fed and OCC also to monitor Early Warning Services (EWS).

- **SEC Custody Bulletin Under Renewed Attack** - Senate Banking Member Lummis (R-WY) and HFSC Chairman McHenry (R-NC) sent a [letter](#) to top banking regulators taking serious issue with an SEC accounting bulletin requiring custodians to recognize digital assets on their balance sheets.
- **Biden Backs CFPB Late-Fee Proposal** - President Biden [reiterated](#) his commitment to targeting “junk fees” in a proclamation announcing National Consumer Protection Week.

This Week

Tuesday, March 7

Senate Banking Hearing entitled: “The Semiannual Monetary Policy Report to the Congress.” [10:00 am, Hart Senate Office Building 216]. Witness: **The Honorable Jerome H. Powell**, Chairman, Board of Governors of the Federal Reserve System.

Senate Banking Subcommittee on Economic Policy Hearing entitled: “The Federal Debt Limit and its Economic and Financial Consequences.” [2:30 pm, Dirksen Senate Office Building 538]. Witnesses: **Dr. Mark Zandi**, Chief Economist, Moody’s Analytics; **Ms. Anat Weisenfreund**, Director of Head Start and Early Learning Programs at Community Action Pioneer Valley; **Mr. Douglas Holtz-Eakin**, President, American Action Forum; and **Mr. Michael R. Strain**, Director of Economic Policy Studies and Arthur F. Burns Scholar in Political Economy, American Enterprise Institute.

Senate Judiciary Subcommittee on Competition Policy, Antitrust, and Consumer Rights Hearing entitled: “Reining in Dominant Digital Platforms: Restoring Competition to Our Digital Markets.” [3:00 pm, Hart Senate Office Building Room 216]. Witnesses: TBD.

Wednesday, March 8

HFSC Hearing entitled: “The Federal Reserve’s Semi-Annual Monetary Policy Report.” [10:00 am, 2128 RHOB]. Witness: **The Honorable Jerome H. Powell**, Chairman, Board of Governors of the Federal Reserve System.

Senate Agriculture Hearing entitled: “Oversight of the Commodity Futures Trading Commission.” [10:00 am, 106 Dirksen Senate Office Building]. Witness: **The Honorable Rostin Behnam**, Chairman, Commodity Futures Trading Commission.

HFSC Oversight and Investigations Subcommittee Hearing entitled: “Holding the Biden Administration Accountable for Wasteful Spending and Regulatory Overreach.” [2:00 pm, 2128 RHOB]. Witnesses: **The Honorable Mark Bialek**, Inspector General, Office of Inspector General for the Board of Governors of the Federal Reserve System and the Consumer Financial Protection Bureau; **The Honorable Richard Delmar**, Deputy Inspector General, Department of Treasury Office of the Inspector General; and **The Honorable Rebecca Sharek**, Deputy Inspector General for Audits and Evaluations, U.S. Securities and Exchange Commission Office of Inspector General.

Future Events of Note

Wednesday, March 22

FHFA Listening Session entitled: "FHLBank System at 100: Focusing on the Future Wrap-Up Listening Session" [12:30, webcast]. Matters to be discussed: TBD.

Thursday, March 23

FHFA Listening Session entitled: "FHLBank System at 100: Focusing on the Future Wrap-Up Listening Session" [12:30, webcast]. Matters to be discussed: TBD.

Friday, March 24

FHFA Listening Session entitled: "FHLBank System at 100: Focusing on the Future Wrap-Up Listening Session" [12:30, webcast]. Matters to be discussed: TBD.

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](#).

- [GSE-030123](#): A recent FRB-Atlanta [study](#) finds that closing the racial homeownership gap alone would not redress housing market racial disparities because minority homeowners cannot equitably access home equity and thus enjoy comparable access to the economic opportunities afforded by homeownership.
- [SANCTION20](#): In a remarkably bipartisan session, the Senate Banking Committee today made it clear that Congress wants tougher sanctions against Russia, near-term action against hold-out nations to oil-price caps and other efforts, and perhaps even confiscation of Russian assets to fund U.S. Ukraine aid.
- [CRYPTO40](#): In the wake of revelations by Silvergate and other banks about significant deposit exposures to cryptoasset entities, federal banking agencies have issued a statement about the need to manage liquidity risk associated with cryptoassets.
- [GSE-022723](#): FHFA has proposed a set of refinements to the current GSE [capital construct](#).
- [CUSTODY5](#): Making full use of powers granted in the 2010 Dodd-Frank Act, the SEC is proposing a wholesale rewrite of the rules dictating how investment advisers must place assets in custody and which institutions are considered qualified for this purpose.
- [GSE-022123](#): As we noted, FHFA is venturing onto treacherous political ground with a [request for input](#) on expanding Fannie and Freddie's ESG imprint.
- [CRYPTO39](#): Although Chairman Brown (D-OH) remained non-committal on the need for crypto legislation, he emphatically called for reform to protect consumers and investors.

- **[GSE-021323](#)**: Following our [initial report](#), we turn here to a more detailed analysis of what's in store for the Home Loan Banks following the [Brookings high-impact forum](#) on Home Loan Banks that are also facing far more unflattering public attention than has been their fate for years.
- **[CREDITCARD36](#)**: Following on a controversial advance notice of proposed rulemaking, the CFPB has now released an NPR setting specific standards for credit-card late fees that also eliminates the inflation adjustments established by the Federal Reserve when implementing the 2009 credit-card law.