FedFin Daily Briefing

Tuesday, March 2, 2023

Senate 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. The Rubio-led bill would fight what its sponsors previously called "political discrimination" by large U.S. banks against federal contractors. The bill is one of several recent efforts by Republicans to combat "woke" finance that face significant odds for passage in the Senate and none for being signed into law. However, we expect the House to pass a variety of "anti-woke" initiatives as well as to put considerable pressure on large banks and federal regulators. Karen Petrou's memo will shortly address how this will play out and whom it will affect.

HFSC GOP Reams CFPB Late-Fee Proposal

Seventeen HFSC Republicans sent a letter late yesterday to CFPB Director Chopra strongly protesting the Bureau's recent NPR targeting credit card late fees (see FSM Report **CREDITCARD36**). The letter argues that the rule will harm credit availability, adversely affect consumer behavior, and shutter rewards programs. The letter also takes sharp issue with the fact that the Bureau to date has not reflected inflation in permissible fees as required by law and violated the law regarding small-business review prior to release of the proposal. Stating that certain assertions in the NPR are nothing more than name-calling, the letter also demands that the Director provide all economic analyses conducted on the proposal's costs, explain why a SBREFA panel was not convened, and detail any coordination with the White House, questioning the independence of the Bureau given the Administration's recent focus on junk fees. A deadline of March 15th is given for a response.

Gensler Boosts SEC Custody Rewrite

SEC Chairman Gensler today 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. He also hit again on the enforcement warning noted in our analysis, stating that the SEC's current custody rule (see FSM Report **CUSTODY3**) already covers numerous cryptoassets, warning investment advisors that they should not rely on crypto trading and lending platforms as qualified custodians. In addition, the Chairman repeated that use of predictive data analytics in which algorithms optimize by advisors' rather than investors' best interests constitutes a conflict of interest, promising again that SEC staff guidance is on its way.

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 yesterday 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. Citing a Reuters investigative report, the Senators claim that Binance founded a US-based subsidiary, Binance.US, to draw regulators away from the main platform, comparing it to the false claim that FTXUS was a distinct entity from FTX. Based on the same report, they also allege that the company deliberately weakened know-your-customer protections and acted against its own compliance department, leading to Binance moving over $10 billion to criminals and sanctions evaders. Thus, the letter demands all subsidiary balance sheets, internal AML-CFT compliance procedures and documents, and documentation of the relationship between Binance and Bianance.US by March 16.

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) today wrote Mr. Hsu to reiterate concern over bank consolidation and demand that the OCC grant community-hearing requests related to branch closings. Although lauding the OCC's recent merger seminar, Sen. Brown nonetheless demands that the OCC and other banking agencies rewrite merger policy to protect vulnerable communities. The absence of a current merger policy has been a longstanding concern of both bank-merger advocates and critics, with questioning on when merger policy is likely possible as Jay Powell comes before Congress next week and certain when all the regulators appear to discuss supervisory policy. No questions are asked nor is there any reply deadline in his letter.

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 oilprice 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.

- **GSE-020623:** A new post from the Federal Reserve Bank of Atlanta summarizes key findings from recent pandemic-era mortgage refinancing research, reiterating prior findings that more White mortgage borrowers got lower refinancing interest rates in 2020 compared to Blacks.

Federal Financial Analytics, Inc.
2101 LStreet, N.W. – Suite 300, Washington, D.C. 20037
Phone (202) 589-0880
E-mail: info@fedfin.com www.fedfin.com