



FedFin Daily Briefing

Friday, March 3, 2023

Senate Dems Demand Bank, Service-Provider Regulation of EWS

Regardless of recent bank changes to Zelle policy, Senate Banking Democrats yesterday 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). The Senators argue that refusal to reimburse victims of fraud related to authorized transactions on the Zelle platform may weaken banks due to customers losing confidence in the product's safety, adding that banks may also be at risk of UDAAP violations should customers' expectations of safety not be met. They are also concerned that banks may not be in compliance with AML standards when banks are on the receiving end of Zelle payments if the banks do not know their customers or monitor accounts for illegal use. They senators ask the regulators to provide statutory recommendations if they lack statutory authority to intervene, with responses requested "promptly."

SEC Custody Bulletin Under Renewed Attack

Senate Banking Member Lummis (R-WY) and HFSC Chairman McHenry (R-NC) late yesterday 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. As we noted in our in-depth analysis of the SEC's custody-reform proposal ([see FSM Report CUSTODY5](#)), this bulletin exacerbates the likely capital cost of requirements in the wake of the SEC's proposed requirements that custodians indemnify investors and take additional risks, making it still less likely that the regulated companies the SEC hopes will serve as qualified custodians will in fact be able or willing to do so. The letter reiterated that custodial assets are segregated and cannot be traded or otherwise deployed in a custodian's own interest, detailing the manner in which the bulletin appears counter-productive and asking the agencies for views on its impact as well as current bank custodian requirements. The letter also notes that the Basel standards for cryptoassets ([see FSM Report CRYPTO37](#)) differentiate tokenized and riskier digital assets, asking the agencies if the SEC's undifferentiated approach poses risks. Answers are due by March 16.

Biden Backs CFPB Late-Fee Proposal

President Biden today [reiterated](#) his commitment to targeting "junk fees" in a proclamation announcing this week as National Consumer Protection Week. The statement highlights overdraft fees as unfair and endorses the CFPB's NPR ([see FSM Report CREDITCARD36](#)) cutting credit card late fees to \$8. The proclamation claims that these actions and others targeting fees outside financial services will save consumers

billions annually. This comes following a House GOP [letter](#) attacking the CFPB proposal that questions the Bureau's independence given the Administration's focus on "junk fees."

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.
- [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.