



FedFin Daily Briefing

Thursday, March 9, 2023

Barr Emphasizes Steep Barriers to Bank Crypto, Retail CBDC

In [remarks](#) today, FRB Vice Chair Barr reiterated that banks should take an extremely cautious approach when engaging with cryptoassets or counterparties and stressed the need to include stablecoins within the regulatory perimeter. For the first time, the Fed made it clear that, while it is open to DLT, smart-contract, and similar payment-system innovations, it is dubious that any will have near-term benefits and all require careful regulatory design. The Vice Chair also reiterated support for a comprehensive regulatory crypto framework, noting that the agencies have all the prudential power they need over banks, but more is required to enhance interagency coordination and public transparency. As Chairman Powell did yesterday ([see Client Report FEDERALRESERVE73](#)), Mr. Barr also differentiated retail from wholesale CBDC, laying out obstacles such as privacy that must be conquered prior to a retail CBDC and noting cross-border payment-system benefits possible with a wholesale instrument. Also like Mr. Powell, the Vice Chair stressed the need for ongoing technology development stating that the U.S. is not in a CBDC “arms race” with other nations. The FSB’s pending crypto standards ([see FSM Report CRYPTO34](#)) are consistent with U.S. objectives, as is Basel’s final crypto-capital standard ([see FSM Report CRYPTO37](#)), with Mr. Barr stating that no Fed-supervised bank now holds cryptoassets.

Expected Battle Lines Form Over CFPB Future

As [predicted](#), today’s HFSC Subcommittee hearing on the CFPB was a partisan and raucous session, with Republicans focusing most strongly on legal and constitutional issues around the Bureau’s funding and enforcement authority and Democrats defending both its legality and effectiveness. Much will come of this in terms of HFSC and floor votes, but we expect no statutory change in this Congress under this President. Subcommittee Chairman Barr (R-KY) was emphatic that the Bureau come under the Congressional appropriations process, highlighting his legislation and reemphasizing that Bureau rulemakings must comply with the Administrative Procedures Act. The Chairman also said that the claim that a Supreme Court defeat for CFPB constitutionality would [challenge](#) all other financial regulators is a bogus “sky is falling” line designed to obscure the need for a CFPB rewrite. Republican witness Devin Watkins, Attorney at the Competitive Enterprise Institute, claimed that the Bureau is different because it is not a prudential regulator, an argument which Ranking Member Foster (D-IL) hotly contested.

Other Republicans took issue with what they called the Bureau’s regulation through “enforcement, blog posts, and press releases,” as well as its lack of congressional oversight, “junk fee” construct ([see FSM Report CONSUMER38](#)), attack on forced-arbitration agreements ([see FSM Report CONSUMER48](#)), small-business data collection rulemaking ([see FSM Report DATA3](#)), credit-card late fee proposal ([see FSM Report CREDITCARD36](#)), UDAAP disparate impact assessment ([see FSM Report CONSUMER39](#)), and general rulemaking they claimed took place outside

appropriate procedures. Several Republicans also argued – with most witnesses agreeing – that the CFPB's circulars raise significant compliance burdens and harm consumers by raising costs, reducing industry innovation, and hampering credit allocation. Democrats unanimously praised the Bureau for its substantial consumer recoveries and defended the legality of its authority over UDAAP and junk fees in particular and its funding mechanism. Some also argued that putting it under the Congressional appropriations process would destabilize the agency. As the hearing [began](#), Senate Banking Committee Chairman Brown (D-OH) and HFSC Ranking Member Waters (D-CA) issued a statement making it still more clear that they will block anything that constrains the CFPB.

Hill Sets Table for Bipartisan Crypto Action

Today's Digital Assets Subcommittee hearing was considerably more conciliatory than the CFPB session earlier today, with Chairman Hill (R-AR) making clear in his opening statement that he is not launching a partisan attack against the SEC, the banking agencies, or the White House. He hopes instead to press bipartisan legislation, thanking former Chair Waters (D-CA) for her work on stablecoins and emphasizing the need not only for new law there, but also across the array of pending digital-asset questions. Despite this, most Republicans attacked the SEC's enforcement-focused policy, with Democrats other than Richie Torres (D-NY) defending the agency. Rep. Emmer (R-MN) argued that the banking agencies and White House are trying to ban cryptoassets, noting as did other Republicans that these have a significant role in an innovative economy. Rep. Davidson (R-OH) not only agreed, but pressed the bill noted in our assessment of today's [hearing](#) authorizing crypto self-custody. Democrats pointed to Silvergate as evidence of the need for caution, but Rep. Davidson argued that Silvergate failed due to fraud, not crypto risk. More hearings are planned followed by sweeping legislative proposals.

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-030923](#): As detailed in our reports earlier this week on Powell's appearance before [Senate Banking](#) and [HFSC](#), much was said about the pending rewrite of big-bank capital standards.
- [FEDERALRESERVE73](#): At today's HFSC hearing, Chairman Powell modulated his hawkish stance just a bit, continuing as he long has done to refuse to take a stand on fiscal policy while advocating for rapid debt-limit action.
- [FEDERALRESERVE72](#): Although Chairman Powell's testimony kept exclusively to monetary policy, today's Senate Banking hearing seemed only to go through the motions set at previous hearings with regard to inflation, growth, and the Fed's long-term objectives.

- **[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.