FedFin Daily Briefing

Thursday, March 30, 2023

Yellen Calls for Bank, Nonbank Regulatory Rewrite

Implicitly confirming press reports that the White House will soon press for tougher bank rules, Treasury Secretary Yellen today said that, as beneficial as the rules imposed since the great financial crisis have been, more stringent standards are necessary. She is thus prioritizing finishing outstanding DFA rulemakings, reversing recent liberalizations, and plugging cracks in the regulatory perimeter. There are no specific bank-regulatory policy recommendations, with Ms. Yellen only noting the importance of a sound, diverse banking system and espousing the like-kind risk, like-kind rule construct for nonbanks. However, the Secretary targets MMFs and OEFs as an area in urgent need of greater liquidity-risk safeguards that would be achieved with the finalization of proposed SEC standards. Ms. Yellen also targets hedge funds, noting ongoing FSOC analyses, and digital assets, citing the need for stablecoin legislation and recent Treasury reports (see FSM Report **CRYPTO40**).

Hsu Sets Dual OCC Mission: Safety, Fairness

In remarks today, Acting Comptroller Hsu emphatically echoed statements of other top regulators that the banking system is safe and sound, emphasizing that the OCC is monitoring the market and is prepared to use its tools to protect the system. He also described the OCC's mission as two-fold: ensuring safety and soundness as well as fairness. Reflecting his audience, Mr. Hsu then described the OCC's work in areas such as overdraft fees and authorize positive, settle negative practices, noting that most national banks have significantly improved practices in these areas. The talk focused on discrimination, highlighting lending, appraisal, and AI and noting that the OCC is redesigning supervisory practices in this area. The agency also remains focused on ensuring equitable access to financial products.

Basel Updates Global Liquidity, Operational Standards

Although the U.S. has still not even proposed the Basel IV "end-game" standards, the Basel Committee continues to refine them and today issued its latest set of FAQs. Notably, Basel is now addressing a hot topic in current liquidity rules: the treatment of instruments with sudden triggers (i.e., contingent-capital bonds); these are to be treated as contingent funding instruments with calls set based on reasonable and prudent stress assumptions. These are likely to be quite conservative in light of recent CS developments. The FAQs also describe how variable margining is to be treated for the NSFR, noting that it is reviewing the extent to which national discretion now addresses risks (i.e., those experienced in 2020). The FAQs also update the operational risk standards (see FSM Report **OPRISK**), addressing matters such as the treatment of insurance income and distressed-asset pricing. Comments are due by May 15.

White House Sets Reg-Reform Agenda

As anticipated early this morning, the White House has issued a statement calling on federal banking agencies to roll back rules the President describes as weakening "common-sense bank safety and supervision." Working together and in concert with Treasury, the agencies are asked to rewrite the tailoring rules for banks with assets between $100 and $250 billion with a particular focus on capital, liquidity, and resolution-planning standards. Interestingly, the White House fact sheet urges that tough new capital standards for regional banks be phased in over a lengthy period of time, a move doubtless designed to prevent tear-term credit contraction. The White House also wants the banking agencies to target fast-growing banks for additional supervisory scrutiny, strengthen supervisory stress testing as well as that conducted for larger banks, expand TLAC's long-term debt requirements to more banks, exempt community banks from the special assessment, and finalize incentive-compensation standards. None of the agencies need follow the White House or Treasury's lead, but all of the items on the list are clearly those contemplated by Vice Chairman Barr, FDIC Chairman Gruenberg, and Acting Comptroller Hsu in recent statements and prior proposals. Additional actions by each of the agencies is not only possible, but also likely; a forthcoming Fedfin report will review the landscape of regulatory changes likely to begin as soon as the agencies complete the reports due on May 1.

Senate Dems Press Agencies to Strengthen Capital Rules

Following this week's hearings (see *Client Report* **REFORM218**), Sens. Warren (D-MA), Blumenthal (D-CT), and Duckworth (D-IL) sent a letter to Vice Chair Barr, Chairman Gruenberg, and Acting Comptroller Hsu urging them to strengthen large-bank capital requirements. This letter comes at the same time as the White House has now asked these agencies to do so in more detail as well as to act quickly to revise liquidity, resolution, stress-testing, and other standards. The Senators claim that Republicans and industry lobbyists may try to emphasize the role that supervisory and regulatory failures played in the collapses in order to weaken capital standards. While they do not disagree with the culpability of the banking agencies, they argue this does not reduce the need for stronger capital requirements. Thus, they also press the agencies to quickly finalize the endgame rules in order to prevent future bank failures.

CFPB Stands By Its Small-Business Reporting Rules

Despite strong industry and GOP opposition, the CFPB today finalized its small business data collection rulemaking in a sweeping final rule the Bureau says will increase transparency in small business lending, promote economic development, and combat unlawful discrimination. In response, HFSC Chairman McHenry (R-NC) issued a scathing statement announcing that he will work to overturn the rule via the Congressional Review Act. We expect this measure to pass the House; its prospects in the Senate are far less certain, but passage there is also possible if moderate Democrats join Republicans in sanctioning the bill. The President is, however, sure to veto any such measure, ensuring that this rule will in fact go into effect. As in the proposal (see FSM Report **SBA40**), the final rule will require data collection on businesses owned by women and minorities, as well as location, demographic aspects, lending decisions, and credit pricing. Bank and non-bank lenders are covered, and the definition for small businesses as those with $5 million or less in gross revenue over the most recent fiscal year is also maintained. Following similar Bureau database efforts, the final rule also provides for a publicly accessible database containing small business credit application information including geographic and demographic data, lending decisions, and loan pricing.

The final rule revises the proposal principally by phasing in data filings, starting most quickly with the largest lenders. Further, loan officers are not required to make their own determinations of an applicant's race or ethnicity. Loans reportable under HMDA will not need to be reported under the rule; Mr. Chopra's statement also indicates that banks filing small-business data for CRA purposes could use these filings to do so, although how this would work in practice is not made clear. The fact sheet also notes that the CFPB intends to issue a supplementary proposal to provide additional implementation time for small lenders that have demonstrated high levels of success in serving their local communities. Additional standards enhancing borrower privacy are also planned.

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.

- **REFORM218:** Today's HFSC hearing on recent bank failures was more partisan than yesterday's Senate Banking session (see *Client Report* **REFORM217**).
- **REFORM217:** Today's Senate Banking hearing was extremely well-attended by Senators on both sides of the aisle clearly looking first to understand what precipitated recent bank failures, who is to blame, and what should be done next.
- **RESOLVE50:** As noted yesterday, the FDIC's recent rescues have had several unusual features with implications not only for future policy, but also for pending special assessments to replenish the DIF for the $22.5 billion estimated costs to the Deposit Insurance Fund.
- **RESCUE79:** Recent editorials and other media have often said that the FRB and/or FDIC have powers or taken actions that is not the factual case as we understand it.
- **GSIB21:** In this report, we assess the implications of recent events on two assumptions underlying current U.S. and global policy affecting GSIBs and those considered domestic SIBs: first, all are likely to be well insulated from illiquidity and/or insolvency and, when this is not the case, then orderly resolution without taxpayer bailout can be readily deployed.

- **LIQUIDITY33:** Among the most vexing issues in the wake of SVB's failure is the extent to which social media may have led to the first "viral run," a run akin to the meme-stock volatility that lead the SEC and others to fear a new form of "flash-crash" risk.

- **GSE-032023:** In this report, we build on FedFin's in-depth reports about recent bank failures to detail new risks for all of the innocent bystanders in the U.S. mortgage market along with a not so-innocent bystander: the Federal Home Loan Banks.

- **REFORM216:** In this report, we continue our policy postmortem of SVB/SBNY and, now, so much more.

- **DEPOSITINSURANCE118:** As promised in our first post-SVB impact assessment (see *Client Report* **RESOLVE49**), this report begins a series of analyses of specific policy issues.

- **RESOLVE49:** As we noted last night, the President concurred with Treasury, the Fed, and FDIC in deciding that SVB's Friday failure and imminent runs on Signature Bank and, most likely, others posed a systemic risk.

- **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.

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