



FedFin Weekly Alert

Monday, April 10, 2023

□ The CFPB Lays an Egg

Okay, maybe that's not the most objective way even before Easter to let you know that one of our in-depth analyses last week was of the CFPB's new policy defining the "abusive" in unfair, deceptive and abusive acts or practices (UDAAP). But, as we noted in our assessment ([see FSM Report UDAP8](#)), the Bureau's policy reaches far, deep, and sometimes perhaps indiscriminately into consumer-finance activities that may err only by falling short of the Bureau's apparently-altruistic view of the only appropriate course of action for consumer-finance companies. We shall see what comes of this policy – even though it's final, it's also out for comment as well as sure to be linked into pending litigation protesting the Bureau's practice of setting rules by administrative fiat. We also expect Republicans to launch the kind of Congressional Review Act repeal announced [last week](#) for the Bureau's controversial small-business [reporting rules](#). But, [as we noted](#), CRA resolutions may well pass the Republican House and even divided Senate, but they will surely not be enacted into law in the wake of a Presidential veto.

Headlines From the Past Week's Daily Briefings

[April 3](#)

- **BIS: Banning Capital Distributions Proved Good for Banks, Borrowers** - If macroeconomic or market conditions worsen, it seems likely that anxious regulators will look to preserve bank capital and turn to the ban on capital distributions briefly in place at the height of the Covid crisis.
- **CFPB Loads Its UDAAP Bazooka** - The CFPB released what to our initial review appears an explosive new [policy statement](#) even though the agency asserts that it sets no new policy.
- **BIS Study Finds Retail CBDCs May Counter Financial Shocks** - Supporting its overall goal of [two-tier CBDC](#), the BIS released a model-based working paper finding that the introduction of a retail CBDC that is perfectly substitutable with bank deposits in an open, large economy (i.e., the U.S.) could lower real interest rates and be an effective tool for countering financial shocks.
- **Why MMFs Beat Bank Deposits** - A [new FRB-NY post](#) uses recent evidence to confirm an earlier study that MMFs are more responsive than bank deposits to monetary-policy tightening.

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April 4

- **House Republicans Launch Attack On New Small-Business Reporting Rule** - House Republicans including Reps. Williams (R-TX), Barr (R-KY), and Ogles (R-TN) [introduced](#) a resolution to overturn the CFPB's small business data collection [final rule](#) via the Congressional Review Act.
- **Bipartisan Leaders Demand End to AML "Escape Hatch"** - Accelerating the odds for a significant FinCEN rewrite, HFSC Chairman McHenry (R-NC), Senate Banking Chairman Brown (D-OH), Ranking Member Waters (D-CA) and a group of bipartisan lawmakers sent a [letter](#) to Secretary Yellen and FinCEN Acting Director Das emphatically stating that FinCEN's latest beneficial ownership [proposal](#) undermines the intent of the Corporate Transparency Act ([see FSM Report AML133](#)) by allowing an "escape hatch" through which firms can continue to do business with a customer even if they are unable to collect beneficial-ownership information.
- **IMF Says NBFIs Should Have Central-Bank Backing** - The IMF's financial-stability report includes a new [chapter](#) on NBFIs.
- **Global Regulators Like Look Of Systemic Insurance Standards, U.S. Implementation** - IAIS published a [report](#) assessing the implementation of its holistic supervisory framework across national jurisdictions, concluding that results demonstrate a "very positive outcome."

April 5

- **FDIC Joins CFPB Targeting UDAP** - The FDIC published Consumer Compliance Supervisory [Highlights](#) showing that UDAP violations related to NSF representment constituted the second highest number of total citations and were by far the largest number of serious citations in 2022.
- **IMF Staff Highlight New Systemic Risk: Geopolitical Stress** - At a panel event, IMF staff reported that their model-based study in the IMF's global financial stability [report](#) found that geopolitical risks and global fragmentation gravely threaten financial stability by weakening interconnectivity between geopolitical blocs.

April 6

- **Treasury Reiterates AML/CFT DeFi Concerns** - Following on the President's executive order ([see Client Report CRYPTO26](#)) and its own reports ([see FSM Report CRYPTO30](#)), Treasury released its [DeFi Risk Assessment](#), finding as prior reports have presaged that AML/CFT noncompliance is the sector's primary vulnerability.

April 7

- No news of note.

This Week

No meetings of note.

Future Events of Note

Tuesday, April 18

HFSC Hearing. [TBD]. Witness: **The Honorable Gary Gensler**, Chairman, Securities and Exchange Commission.

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](#).

- **UDAP8**: Following its usual practice of setting standards by edict, the Bureau of Consumer Financial Protection has laid out an extensive framework that brings a wide range of consumer-finance actions and inactions within the scope of enforcement sanctions governing acts or practices that are not only unfair or deceptive, but also abusive.
- **GSE-040623**: [FHFA](#), [Fannie](#), and [Freddie](#) yesterday updated the sometimes-controversial equitable-finance [plans](#) FHFA approved last year.
- **GSE-040323**: We have written from time to time about [covered bonds](#).
- **REFORM219**: With Thursday's White House [announcement](#), we know that the Administration will do its best to support Fed and FDIC efforts to color recent events as a failure of Republican-led rulemaking, not also one of agency supervisory acumen, speed, and even competence.
- **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 led 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.