FedFin Weekly Alert

Monday, April 17, 2023

❑ So Much to Do…

Last week, we continued our assessment of the policy questions confronting federal regulators and Congress as they simultaneously investigate recent failures and position themselves to get as much out of them as possible to achieve long-cherished reform goals. Although there will be no decisive action until the Fed and FDIC submit their reports and answers to lots of letters that trickle in, important directional signs are coming into view. Those we assessed last week include:

- The shape of things to come on executive-compensation clawbacks. Although it is far from clear how the FRB, FDIC, OCC, SEC, FHFA, and NCUA will finalize long-pending incentive-comp rules (see FSM Report **COMPENSATION33**), that's not slowing key members of Congress. FSM Report **COMPENSATION35** analyzes S. 1045, bipartisan legislation that would not only dramatically expand FDIC clawback powers, but also rewrite the bankruptcy rules for parent holding companies.
- Regulatory Rewrite: *Client Report* **REFORM220** looks through all the votes in recent years cast by NEC Director Brainard when she was at the Fed and FDIC Chairman Gruenberg. We did so because they lay out priorities each of these key policymakers will set as they work through the post-SVB agenda. Many will say – indeed Karen Petrou has said – that supervision is far more at fault than lax regulation. However, that's not to say that the rules are perfect and, even if they are, they are surely not the rules Ms. Brainard and Mr. Gruenberg prefer. Ms. Brainard cannot directly tell the agencies what to do, but she has significant influence even as Mr. Gruenberg has wide authority on his own and the ability – far from unprecedented – of refusing to go along with inter-agency rulemakings unless or until they satisfy the FDIC.
- New Ideas: We have provided in-depth assessments of the regulatory and legislative construct as post-SVB developments keep recasting it, most recently looking at how the agencies will redesign capital and liquidity rules along with so many others (see *Client Report* **REFORM219**). However, U.S. regulators aren't the only ones redesigning their constructs due to hard lessons learned. As we detailed late last week (see *Client Report* **IRR8**), the head of the Basel committee plans to reopen decisions from as long ago as 2013 in which capital and liquidity compromises Basel struck to advance the overall post-2008 framework now seem undue concessions. As we noted, we think U.S. agencies share these views and will move quickly to right what they see as wrongs not just in pending rewrites to the tailoring rules, but also in freestanding guidance and revised stress-test protocols.

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Headlines From the Past Week's Daily Briefings

April 10

- **FRB-NY Study: When Franchise Value Flies Out the Window -** In a timely post ahead of earnings season, the Federal Reserve Bank of New York's staff posted an assessment of the impact of higher interest rates on bank franchise value.

- **Warren, AOC Challenge SVB's Large Depositors -** Following her request and that of Sen. Blumenthal (D-CT), Sen. Warren (D-MA) and Rep. Ocasio-Cortez (D-NY) sent a series of letters to fourteen of SVB's largest corporate depositors seeking to get at any abuses that may have precipitated the $42 billion run the day before the bank failed on March 10.

April 11

- **FRB-NY Finds Still Sticker Deposit Rates, Tougher Fed Policy Transmission -** A new post from Federal Reserve Bank of New York staff concludes that, even as deposit funding declines, banks remain liquid due to less rate-sensitive sources such as time deposits and FHLB advances.

- **Chopra Wants Expanded FDIC Coverage, Payment-System Guardrails, Comp Reform -** In remarks, CFPB Director Chopra called for tailoring DIF assessments to protect community banks and to expand coverage to payroll and certain other accounts.

April 12

- **Hill Charts Different FDIC Course -** In remarks, newly-confirmed Republican FDIC Vice Chairman Travis Hill for the first time lays out his thinking ahead of a raft of FDIC decisions in SVB's wake.

- **CFPB UDAAP Policy Now Effective -** The *Federal Register* includes the CFPB's policy statement expanding the scope of the Bureau's UDAAP framework, which is now effective upon this publication.

- **Scott Lays Out Housing Plan -** In conjunction with advancing his Presidential campaign, Senate Banking Ranking Member Scott (R-SC) announced his new federal housing framework via planned legislation, the Renewing Opportunity in the American Dream (ROAD) to Housing Act.

- **Basel Turns to Capital, LCR Revamp -** The Basel Committee's head, Pablo Hernández de Cos, spoke out strongly against regulatory liberalization, implicitly criticizing the U.S. tailoring rules and urging jurisdictions to adhere tightly to Basel's "multi-metric" standards given their proven value in the recent crisis.

April 13

- **KC Fed: AOCI Recognition Boosts Credit Availability -** A new staff study from the Kansas City Fed finds that significant holdings of unrealized losses adversely affect loan growth in addition to posing the solvency challenges all to evident in recent failures.

April 14

- **Waller Defends Fed SVB Policy -** FRB Gov. Waller defended recent Fed actions, reiterating that SVB was an idiosyncratic risk but it also posed systemic run risk, the most fundamental threat to financial stability.

- **FHFA Opens the Suggestion Box -** FHFA sought views on its corpus of GSE regulation.

- **FRB-NY Proposes Novel Way To Prevent Bank Runs -** A new post from FRB-NY staff adapts the minimum-balance-at-risk (MBR) policy long discussed for MMFs (see FSM Report **MMF16**) to bank deposits to determine the extent to which it would quell uninsured-deposit runs.

- **CFPB Announces Revisions To APOR Methodology -** The CFPB announced a revised version of its Methodology for Determining Average Prime Offer Rates (APOR).

- **Bowman Rejects Calls For New Rules -** In remarks, FRB Gov. Bowman again differed from Vice Chairman Barr, emphasizing that recent failures are likely not an “indictment” of current rules and that judgment should await the Fed’s report and those from others.

This Week

Tuesday, April 18

HFSC Hearing entitled: “Oversight of the Securities and Exchange Commission." [10:00 am, 2128 RHOB]. Witness: **The Honorable Gary Gensler**, Chair, Securities and Exchange Commission.

FDIC Open Meeting. [10:00 am, webcast]. Matters to be discussed: Semiannual update of the DIF Restoration Plan.

Senate Banking Nomination Hearing. [10:00 am, Dirksen Senate Office Building 538]. Witnesses: **Dr. Jared Bernstein**, of Virginia, to be Chairman of the Council of Economic Advisers, Executive Office of the President; **Dr. Ron Borzekowski**, of Maryland, to be Director of Financial Research, Department of the Treasury; **Mr. Solomon Jeffrey Greene**, of the District of Columbia, to be an Assistant Secretary of Housing and Urban Development, Department of Housing and Urban Development; and **Mr. David Uejio**, of California, to be Assistant Secretary of Housing and Urban Development, Department of Housing and Urban Development.

Wednesday, April 19

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HFSC Digital Assets, Financial Technology and Inclusion Subcommittee Hearing entitled: “Understanding Stablecoins’ Role in Payments and the Need for Legislation.” [10:00 am, 2128 RHOB]. Witness: TBD.

HFSC Capital Markets Subcommittee Hearing entitled: “A Roadmap for Growth: Reforms to Encourage Capital Formation and Investment Opportunities for All Americans.” [2:00 pm, 2128 RHOB]. Witness: TBD.

Friday, April 21

FSOC Open Meeting. [11:15, webcast]. Matters to be discussed: The executive session includes an update on market developments; on the Council’s Hedge Fund Working Group; on the work of the Council’s Nonbank Mortgage Servicing Task Force; the Council’s proposed analytic framework for financial stability risk identification, assessment, and response; and the Council’s proposed guidance on nonbank financial company designations. The public session includes the Council’s proposed analytic framework for financial stability risk identification, assessment, and response, and the Council’s proposed guidance on nonbank financial company designations.

Future Events of Note

Wednesday, April 26

HFSC Markup. [10:00, webcast]. Matters to be discussed: capital formation legislation.

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-041323:** As we noted earlier today, global regulators are rethinking their 2015 decision not to require an express capital charge for interest-rate risk, a shift with significant implications for the role of U.S. banks as mortgage lenders and investors.
- **IRR8:** As we noted yesterday, the head of the Basel Committee has targeted two capital and liquidity compromises included in the current Basel III construct not addressed in the end-game rules to which the U.S. plans shortly to turn.
- **COMPENSATION35:** Executive compensation incentives have proved among the most important reform priorities in the wake of recent bank failures.
- **REFORM220:** In this report, we drill down on prior forecasts (see *Client Report* **REFORM219**) of near-term regulatory action to identify the revisions sure to be prioritized as NEC Director Brainard and FDIC Chairman Gruenberg seek to reverse rules finalized over their objections when they were in the minority.

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- **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 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.

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