



FedFin Weekly Alert

Monday, May 8, 2023

□ WEEKEND WARRIORS

As we finalize this update, we along with everyone else focused on the financial market is back on weekend watch for large regional-bank resolutions. What Congress does in response to the failures so far seems clear, but changing events could redefine our current view that no substantive legislation will address anything about recent failures other than give the FDIC additional clawback authority along the lines discussed at last week's Senate Banking [hearing](#). And even that isn't clear given the breadth of Sen. Warren's bill ([see FSM Report COMPENSATION35](#)) and questions Republicans have about it no matter the GOP cosponsors Sen. Warren enlisted. Still, even if nothing about any new failures substantively changes the legislative outlook, this week's hearings and those to come thereafter (see the schedule below) will be seriously substantive and policy consequential. We will as always provide clients with in-depth analyses, listening for:

- How the GAO report affects bipartisan demands for supervisory reform. As our in-depth analysis of that report makes clear ([see Client Report REFORM223](#)), the GAO laid out a persuasive case that it has warned the banking agencies for over a decade about the supervisory lapses that proved so damaging as SVB and SBNY faltered. We expect Republicans to make much of this in chastising the Fed and making the case that supervision – not regulation – is the answer. Democrats want new rules and some even want new law, but we expect none will let the Fed off the sharp hook GAO has prepared;
- the specific supervisory fixes to which the Fed and FDIC agree given the lack of specificity or deadlines in each of their reports ([see Client Reports REFORM221](#) and [REFORM222](#)). We expect them to be as resistant as ever to CAMELS disclosures – indeed, FSOC's request for comment on nonbank SIFI designation defends confidential CAMELS ([see FSM Report SIFI35](#)). However, the “this time we'll fix it” promises in the report combined with GAO's critique will force concrete action plans from each of these agencies and, we expect, also from the OCC;
- if there is any appetite for the targeted deposit-insurance increase the FDIC recommended ([see Client Report DEPOSITINSURANCE119](#));
- the fixes to viral runs that the Fed and FDIC are cooking up;

- how GOP demands for private-sector bank resolutions comports with Democrats opposition to more big-bank deals and provisions in current law prohibiting private-equity or other nonbank financial firms to control an IDI without becoming a BHC or somehow turning a diversified bank into an ILC; and
- how progressive Democrats pick up Rohit Chopra's [points](#) about the need quickly to finalize merger standards to prevent further consolidation and rewrite living-will requirements to ensure early divestiture of high-risk activities, liabilities, or assets.

Headlines From the Past Week's Daily Briefings

May 1

- **HFSC GOP Gives FRC Faint Praise** – We will shortly provide clients with an assessment of the policy implications of the FRC rescue. These are already emerging with a [statement](#) from HFSC Chairman McHenry (R-NC) in which he praises the FDIC's decision to sell the bank rather than establish a bridge entity.
- **Senate Banking Leadership Supports FRC Resolution** - In statements on FRC's rescue, Chairman Brown (D-OH) [reiterated](#) his demand for more big-bank guardrails, demurring on the criticism one might have expected in the wake of JPMorgan's acquisition in light of Sen. Brown's longstanding campaign against big-bank consolidation.
- **FDIC Gives JPM Unique Acquisition Backstops** - Although the FDIC's [statement](#) regarding First Republic's resolution is silent with regard to key terms other than the \$13 billion loss it anticipates, the JPM [release](#) provides important insight into this precedent-setting acquisition.
- **FDIC Opts For Targeted-Coverage Hikes** - Despite the furor surrounding its FRC rescue, the FDIC stuck to plan and [released](#) its report on deposit-insurance reform in the wake of SVB's and SBNY's resolutions.
- **CFPB Proposes Safeguards for PACE Loans** - As required by Congress, the CFPB proposed a [rule](#) requiring PACE loan lenders to assess a borrower's ability to repay and applies TILA civil liability provisions to violations.

May 2

- **Brown Takes on Fintech's FDIC Claim** - Senate Banking Chairman Brown (D-OH) sent a [letter](#) to FDIC Chairman Gruenberg flagging a fintech company for marketing practices the senator believes are in violation of FDIC rules around deposit insurance representations ([see FSM Report DEPOSITINSURANCE112](#)).
- **Progressive Democrats Again Press Powell**- Sens. Warren (D-MA), Sanders (I-VT), and eight Democrats sent a [letter](#) to Chairman Powell reiterating demands that the Fed pause raising rates, citing the employment half of its mandate.

May 3

- **Powell Stands by His Actions, SVB Report** - As anticipated, Chairman Powell opened his press conference by describing the banking system as resilient and defending the Fed's handling of recent failures.

May 4

- **Brown Reiterates Calls for Expanded Clawbacks, Tougher Bank Regs** - As a precursor to upcoming hearings, Chairman Brown (D-OH) laid out his legislative priorities at a poorly attended Senate Banking hearing.
- **Brown Seeks Data On Big-Bank Voice Authentication** - Senate Banking Chairman Brown (D-OH) [asked](#) selected big banks for information on voice authentication system security, highlighting AI risks.
- **Chopra Demands New Resolution Policies** - In remarks, CFPB Director Chopra took strong issue with the FDIC's decision to sell FRC to JPMorgan, arguing that the law not only mandates a least-cost resolution, but also one that addresses financial stability and other risks.

May 5

- No items of note.

This Week

Wednesday, May 10

Joint Financial Services-Agriculture Subcommittee Hearing Entitled: The Future of Digital Assets: Measuring the Regulatory Gaps in the Digital Asset Markets. [9:30 AM in 1100 LHOB]. Witnesses TBD.

HFSC Subcommittee on Financial Institutions and Monetary Policy Hearing Entitled: Federal Responses to Recent Bank Failures. [2:00 PM in 2128 RHOB]. Witnesses TBD.

Thursday, May 11

HFSC Subcommittee on Oversight and Investigations Hearing Entitled: Oversight of Silicon Valley Bank and Signature Bank: GAO's Preliminary Review. [10:00 AM in 2220 RHOB] Witnesses TBD.

FDIC Sunshine Act Meeting on the Notice of Proposed Rulemaking on Special Assessments Pursuant to Systemic Risk Determination [10:00 AM]

Future Events of Note

No meetings of note.

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](#).

- **SIFI35**: In concert with proposing a new systemic-risk methodology, the Financial Stability Oversight Council sought comment on guidance that significantly rewrites the manner in which nonbanks are designated as systemically important financial institutions (SIFIs).
- **DEPOSITINSURANCE119**: In this report, we follow our initial [assessment](#) of the FDIC's deposit-insurance reform [report](#) with an in-depth analysis of its recommendations and their prospects.
- **REFORM223**: Following our analyses of the Fed's report on SVB ([see Client Report REFORM221](#)) and the FDIC's on SBNY ([see Client Report REFORM222](#)), we turn now to [one](#) from the General Accountability Office sure to have at least as much impact on bipartisan consideration of what needs next to be done to govern regional banks.
- **REFORM222**: In this report, we build on our assessment earlier today of the Fed's SVB autopsy ([see Client Report REFORM221](#)) with an assessment of the FDIC's self-review of Signature's failure.
- **REFORM221**: In this and subsequent reports, we build on our initial reactions to SVB/SBNY [reports from the Fed, FDIC, and GAO](#), focusing in more depth on the agencies' plans for near-term action with strategic consequence and key points in the GAO's report that will strongly influence Hill reactions on both sides of the aisle.
- **GSE-042723**: FSOC's newly-proposed analytical methodology for [systemic risk identification](#) is most immediately important for nonbank mortgage companies and the regulated institutions that love them.
- **SYSTEMIC95**: Rejecting the Trump Administration's hands-off approach to designating systemically-important nonbank financial institutions or activities and practices, the Biden Administration's FSOC has bifurcated this construct with one proposal on designating entities and another that lays out an analytical approach to identifying systemic risk that would then guide firm and activity designation as well as Council staff coordination with primary federal regulators leading to new rules, product or service prohibitions/restrictions, or firm-specific supervisory action.
- **GSE-042023**: FHFA yesterday [proposed](#) a sweeping rule that would codify Sandra Thompson's equitable- and fair-housing standards in a rule that any future FHFA director would have to work a lot harder to reverse.
- **CRYPTO42**: As we [anticipated](#), the HFSC Digital Asset Subcommittee hearing today on federal stablecoin legislation did not entertain bipartisan expressions of support for the draft noticed with

the hearing [announcement](#).

- **[CRYPTO41](#)**: As [anticipated](#), HFSC's hearing today with Chairman Gensler was a raucous affair which, while divided sharply on party lines when it comes to Mr. Gensler, also laid out general agreement on matters such as the need for stablecoin legislation (the topic of a high-profile hearing tomorrow).
- **[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.