



FedFin Weekly Alert

Monday, May 15, 2023

☐ Warm-Up Acts Over, Congress Readies for Rowdy Performance

We'll be busy this week giving you in-depth analyses of all of the key hearings scheduled this week and next on what went wrong on bank failures past, present, and hopefully not future. Last week saw two opening numbers: HFSC's Financial Institutions Subcommittee [heard](#) from bank lawyers, an investment bank CEO, and a professor and its Oversight Subcommittee [reviewed](#) GAO's in-depth take-down ([see Client Report REFORM223](#)) of what the Fed and FDIC did at SVB and Signature and, by inference, what they said about it. As our analyses described, Republicans are firmly convinced that the banking agencies dropped very big, obvious balls; Democrats aren't exactly stout defenders, but they are doing their best to chime in with the agencies by emphasizing how badly bank management behaved and how much of their compensation needs to be recouped as reparations. So far, there's been little focus on the separate, also critical question of deposit-insurance reform following the FDIC's recommendation for targeted insurance for business accounts ([see Client Report DEPOSITINSURANCE119](#)), but [new bills](#) are moving this on fast-forward even though Financial Institutions Subcommittee Chair Barr (R-KY) dismissed the FDIC's review as little more than a "term paper." Karen Petrou's Monday memo will address this along with the FDIC's proposed special assessment to recoup its enormous SVB and SBNY [losses](#). In short, much is moving and we'll be doing the same – as always, please let us know if you've questions about our analyses or areas on which you'd like more attention or detail.

Headlines From the Past Week's Daily Briefings

May 8

- **GOP Plans Bills to Open Supervisory, Emergency-Liquidity, Systemic Decisions** - Although its witness list is preliminary, the majority staff [memo](#) on the HFSC Subcommittee hearing makes it clear that the committee is gearing up for legislative action focused on supervision, not regulation.
- **Fed Announces Secure Supervisory Communication Portal** - In a supervisory [letter](#), the FRB announced that it will use the One Agile Supervision Solution (OASiS) application securely to exchange information with supervised institutions, including examination-related documents.
- **Scott Ramps Up GOP Anti-LLPA Campaign** - Following a recent House GOP [bill](#) that would block changes to the GSEs' LLPAs, Senate Banking Ranking Member Scott (R-SC) sent a [letter](#) to FHFA Director Thompson taking issue with the pricing frameworks.

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- **Fed Stands by Systemic Resilience Despite Credit Qualms** - The FRB's semiannual financial-stability [report](#) is decidedly more pessimistic than its November predecessor ([see Client Report SYSTEMIC94](#)).

May 9

- **California SVB Supervisor Says Fed Mostly To Blame** - The state regulator for several failed and troubled banks, California's Department of Financial Protection and Innovation (DFPI), has now [released](#) its own SVB post-mortem, blaming the Fed far more than it blames itself.
- **Senate Progressives Push For Card Late-Fee Restrictions** - Sens. Warren (D-MA), Brown (D-OH), and six other progressive Democrats [sent a letter](#) to the CEOs of large credit-card issuers strongly protesting the industry's recent defense of credit-card late fees.

May 10

- **McHenry Seeks To Use Appropriations Denial As Legislative Weapon** - In his [letter](#) to Appropriations Committee leadership, HFSC Chairman McHenry (R-NC) not only highlights GOP budgetary issues, but also requests that the panel deny funding for further SEC action on new rules governing open-end funds, equity-market execution, and climate-risk disclosures.
- **CFPB Declares Unilaterally Reopened Deposit Accounts To Be UDAAP** - Continuing its and the Administration's campaign against "junk fees," the CFPB issued a [circular](#) establishing that its UDAP authority may apply to banks that unilaterally reopen a deposit account to process debits or deposits after a consumer has closed it.
- **FHFA Concedes on DTIs, May Even Address LLPA Controversy** - FHFA retreated far more completely on its [controversial decision](#) to retain an upfront fee related to a borrower's debt-to-income level, now [saying](#) that it will postpone this requirement indefinitely pending views to be solicited via a forthcoming RFI.
- **Barr Lambasts Regulators as Democrats Press Targeted Change** - At the HFSC Financial Institutions Subcommittee hearing, Chairman Barr (R-KY) was scathing in his denunciation of reports from the Fed ([see Client Report REFORM221](#)) and FDIC ([see Client Report REFORM222](#)) on the failures and of what he called a "term paper" from the FDIC outlining deposit-insurance options ([see Client Report DEPOSITINSURANCE119](#)).

May 11

- **Treasury Presses Fed Efforts to Contain Systemic Liquidity Risk** - In [remarks](#), Treasury Under-Secretary Nellie Liang addressed systemic liquidity risks such as the 2020 dash-for-cash and recent bank failures.

- **FDIC Proposes Special, Costly Uninsured-Deposit Assessment** - The FDIC [voted](#) 3-2 to propose the special assessments presaged in Chairman Gruenberg's Congressional testimony after SVB and SBNY's failures ([see Client Report REFORM218](#)).
- **GOP Endorses GAO Recommendations; Dems Point To Bank Management** - At the HFSC Oversight Subcommittee hearing on the GAO's report ([see Client Report REFORM223](#)), Subcommittee Chair Huizenga (R-MI) built the case that the Fed has historically been unable to properly supervise troubled banks and noted that the committee will investigate this along with the Systemic-Risk Exception used in recent failures.
- **Waller Disavows Fed Climate-Risk Action** - Confirming the Fed's omission of climate risk in its new financial-stability report ([see Client Report SYSTEMIC96](#)), Gov. Waller [said](#) not only is climate risk not now a threat to financial stability, but it also does not pose a safety-and-soundness hazard to large banks.
- **FRB-NY Data Contradict Story Of Significant Small-Bank Deposit Outflows** - The FDIC's decision to propose new DIF assessments for uninsured deposits makes a [new FRB-NY post](#) on bank funding still more germane.
- **HFSC GOP Demands SEC Rescind Custody Proposal** - HFSC GOP leadership sent a [letter](#) to the SEC demanding that it rescind its custody proposal ([see FSM Report CUSTODY5](#)) on grounds that the proposal is far broader than SEC authority allows, will adversely affect many markets, and make digital asset custody "extremely onerous and costly."

May 12

- **Bowman Blasts Barr** - In another public sign of a growing FRB divide, Gov. Bowman [followed](#) Gov. Waller in taking strong issue with what would otherwise appear to be Board policy.
- **Fed Nominees Face Tough Confirmation Fight** - In response to President Biden's nomination of Philip Jefferson for Fed Vice Chair and Dr. Adriana Kugler and Lisa Cook to Fed Governor seats, Democrats have voiced strong support while Republicans are biding their time on nominations sure to prove controversial.
- **GOP Presses Broader FDIC, FRB Backstops** - Picking up on the FDIC's report ([see Client Report DEPOSITINSURANCE119](#)), Republicans have introduced legislation to provide limited coverage for transaction accounts and address other issues raised by recent events.
- **FRB-NY: SVB, Signature are 1930s Redux** - Following on its [post](#) regarding changing bank-funding sources, the Federal Reserve Bank of New York [argues](#) that the concentrated, uninsured deposit bases at SVB and SBNY are directly comparable to those of small rural banks in the 1930s.

This Week

Tuesday, May 16

Senate Banking Full Committee Hearing entitled: “Examining the Failures of Silicon Valley Bank and Signature Bank” [10:00 am, G50]. Witnesses: **Mr. Gregory W. Becker**, Former CEO, Silicon Valley Bank; **Mr. Scott A. Shay**, Former Chairman and Co-Founder, Signature Bank; and **Mr. Eric R. Howell**, Former President, Signature Bank.

HFSC Hearing entitled: “Oversight of Prudential Regulators.” [10:00 am, 2128 RHOB]. Witnesses: **The Honorable Michael Barr**, Vice Chairman for Supervision, Board of Governors of the Federal Reserve System; **The Honorable Martin Gruenberg**, Chairman, Federal Deposit Insurance Corporation; **The Honorable Todd Harper**, Chairman, National Credit Union Administration; and **The Honorable Michael Hsu**, Acting Comptroller, Office of the Comptroller of the Currency.

Wednesday, May 17

Senate Banking Subcommittee on Economic Policy Hearing entitled: “Strengthening Accountability at the Federal Reserve: Lessons and Opportunities for Reform.” [2:30 pm, D538] Witnesses: **Mr. Mark Bialek**, Inspector General, Board of Governors of the Federal Reserve System and the Consumer Financial Protection Bureau; **Dr. Peter Conti-Brown**, Associate Professor Of Legal Studies & Business Ethics, The Wharton School of the University of Pennsylvania; **Dr. Paul H. Kupiec**, Senior Fellow, American Enterprise Institute; and **Ms. Mayra Rodríguez Valladares**, Managing Principal, MRV Associates.

Joint HFSC Subcommittees on Financial Institutions and Monetary Policy and Oversight and Investigations Hearing entitled: “Continued Oversight Over Regional Bank Failures.” [10:00 am, 2128 RHOB]. Witnesses: TBD.

HFSC Housing and Insurance Subcommittee Hearing entitled: “The Current Mortgage Market: Undermining Housing Affordability with Politics.” [2:00 pm, 2220 RHOB]. Witnesses: TBD.

SEC: Open Meeting. [10:00 am, webcast]. Matters to be discussed: Covered Clearing Agency Resilience and Recovery and Wind-Down Plans.

Thursday, May 18

HFSC Digital Assets, Financial Technology and Inclusion Subcommittee Hearing entitled: “Putting the ‘Stable’ in ‘Stablecoins’: How Legislation Will Help Stablecoins Achieve Their Promise” [9:00am, 2128 Rayburn]. Witnesses: TBD.

Senate Banking Hearing entitled: “Oversight of Financial Regulators: Financial Stability, Supervision, and Consumer Protection in the Wake of Recent Bank Failures.” [9:30 AM,

Dirksen G50] Witnesses: **The Honorable Michael S. Barr**, Vice Chair For Supervision the Federal Reserve; **The Honorable Martin J. Gruenberg**, Chair of the Federal Deposit Insurance Corporation; **The Honorable Todd M. Harper**, Chair of the National Credit Union Administration; **Mr. Michael J. Hsu**, Acting Comptroller of the Office of the Comptroller of the Currency; **The Honorable Adrienne A. Harris**, Superintendent of New York State Department of Financial Services; **The Honorable Clothilde V. Hewlett**, Commissioner of the California Department of Financial Protection & Innovation.

Senate Judiciary Subcommittee on Privacy, Technology and the Law Hearing entitled: "Oversight of A.I.: Rules for Artificial Intelligence." [10:00 am, Dirksen Senate Office Building Room 226]. Witnesses: TBD.

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](#).

- **CRYPTO43**: Today's joint HFSC-House Ag hearing on assessing crypto's regulatory gaps saw bipartisan calls for Congressional action, but none on what that should be done.
- **GSE-050923**: As [our in-depth report](#) earlier today details, the Fed's latest financial-stability [report](#) pulls a lot of punches because, as always, it's afraid to frighten the children with frank discussion of what might actually threaten financial stability in the near term.
- **SYSTEMIC96**: Perhaps because its last financial-stability report ([see Client Report SYSTEMIC94](#)) was contradicted just five months later by a systemic-risk designation, the Federal Reserve's latest [report](#) eschews a conclusion about prospective risk in favor of a review of current concerns.
- **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.

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- [**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](#).