FedFin Daily Briefing

Monday, May 1, 2023

HFSC GOP Gives FRC Faint Praise

We will shortly provide clients with an assessment of the policy implications of the FRC rescue early this morning. 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. He remains critical that the FDIC failed to do this quickly for SVB and SBNY, reiterating that hearings and an investigation of bank regulatory, supervision, and resolution policy will proceed.

Senate Banking Leadership Supports FRC Resolution

In statements today 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. As before, we expect Democrats generally to avoid criticizing the FDIC for its actions in this case despite the exception granted to DFA's overall prohibition on acquisitions that result in a deposit share greater than ten percent. Republicans are more focused on the FDIC's decision to arrange immediately for a private-sector acquisition, with Ranking Member Scott (R-SC) echoing Chairman McHenry's statement earlier today.

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. Notably, the loss shares are very generous, with the FDIC assuming eighty percent of mortgage losses over the next seven years and eighty percent also for CRE and similar loans over the next five years. JPMorgan notes that these loss-shares also significantly reduce the risk-based capital cost of the acquisition, which is expected to be immediately accretive. In what we believe is a first, the FDIC is also giving JPM $50 billion of fixed-rate five-year financing on terms not otherwise disclosed. JPM is paying the FDIC $10.6 billion in return for all the assets it is acquiring, committing also to honoring all deposit liabilities including the $25 billion other banks kicked in with JPM when FRC received a $30 billion deposit in April in hopes of tiding it over. We assume more details will be provided from the FDIC about how these terms comply with its least-cost requirement as well as the bidding process on which Congressional Republicans are already expressing considerable interest. Democrats have so far demurred criticizing the FDIC but this may not last if progressives come to view these terms as so generous as to exacerbate their qualms over greater big-bank market power.

FDIC Opts For Targeted-Coverage Hikes

Despite the furor surrounding its FRC rescue, the FDIC stuck to plan today and released its report on deposit-insurance reform in the wake of SVB's and SBNY's resolutions. We will shortly provide clients with an in-depth assessment of a report which highlights social-media runs at banks with large uninsured balances as key risk drivers that require policy remedy. Three reform options are considered: keeping the divide between insured and uninsured deposits, perhaps with a higher insurance threshold; unlimited FDIC coverage; or targeted coverage increases for business payment accounts, the option the FDIC prefers. This is the approach outlined in Karen Petrou's recent Barron's op-ed, with the new report also pointing to a concern he identified: a clear definition of business payment accounts to prevent regulatory arbitrage. Any coverage change requires Congressional approval, with Chairman Gruenberg's statement essentially handing this question over to them. Despite the report's discussion, it does not appear on first read that the report addresses other issues Mr. Gruenberg said he wants to consider such as adjusting risk-based premium assessments and handling social-media runs (see Client Report **REFORM219**).

CFPB Proposes Safeguards for PACE Loans

As required by Congress, the CFPB today proposed a rule requiring PACE loan lenders to assess a borrower's ability to repay and applies TILA civil liability provisions to violations. In the release accompanying the rule, CFPB Director Chopra claims that PACE loan lenders often "bait" homeowners into unaffordable loans. The proposal changes loan estimate and closing disclosures to better fit the nature of PACE loans, such as requiring identifying information of the PACE company and eliminating certain fields relating to escrow account information. Comment is due thirty days after publication in the *Federal Register*.

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.

- **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.

- **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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