



FedFin Daily Briefing

Thursday, May 4, 2023

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 today's poorly attended Senate Banking hearing. As before, he is planning legislation that strengthens regulatory authority to penalize troubled-bank insiders, expands the FDIC's clawback authority, and requires the banking agencies to finalize Dodd-Frank's incentive-compensation rule (an odd choice but the threat of new law seems intended to force the agencies to act on their longstanding authority under the 2010 Act). The Chairman also repeated his call for tougher bank regulations. Ranking Member Scott (R-SC) reiterated Republican emphasis on the banking agencies, arguing that a failure to hold regulators accountable provides no incentive for bad managers to change their risky behavior. Chairman Brown asked Professor Da Lin of Richmond University and Professor Heidi Schooner of Catholic University why current removal powers are not suited for SVB and SBNY executives; they pointed to the high culpability requirements of administrative enforcement. Both Ms. Lin and Ms. Schooner recommended broadening these requirements under questioning from Sens. Tester (D-MN) and Warner (D-VA).

Sen. Warren (D-MA) argued that regulators need to be compelled to exercise clawback authorities and that clawbacks should be applicable in any bank failure regardless of circumstance, promoting her bill ([see FSM Report COMPENSATION35](#)). Sen. Vance (R-OH) voiced concern that the term "institution-related party" in bills such as the bipartisan Warren measure may be so broad as to apply to employees not responsible for the bank failures. Thomas Quaadman of the Chamber of Commerce agreed, noting application also to third-party firms. The Banking Committee plans next week to have SVB, SBNY, and perhaps FRC management before it in a hearing pressing an array of compensation and supervisory points; HFSC Ranking Member Waters (D-CA) today [pressed](#) Chairman McHenry (R-NC) to do the same.

Brown Seeks Data On Big-Bank Voice Authentication

Senate Banking Chairman Brown (D-OH) today asked selected big banks for information on voice authentication system security, highlighting AI risks. Citing consumer data security concerns, he also asks how the banks store voice data and if it is shared with third parties. Responses are due by May 18.

Chopra Demands New Resolution Policies

In remarks today, 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. He did not indicate if this transaction was approved over his objection, stating instead that he wants quick action to finalize the agency's pending merger standards ([see FSM Report MERGER9](#)) to ensure that future resolutions are feasible without similar acquisitions. This could be accomplished also via making more use of authority under law with regard to living wills to, for example, force divestitures when a bank's condition begins to falter. The CFPB is also looking at any authority it might have to reduce big-bank risk. He also indicated that the Bureau will use its "dormant authority" to mandate open banking, not saying how this relates to its pending data-rights rule ([see FSM Report DATA3](#)).

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.
- **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.