



FedFin Weekly Alert

Monday, June 12, 2023

❑ A DAY IN THE GAUNTLET

On Tuesday and Wednesday, CFPB Director Chopra will come before Senate Banking and HFSC for the increasingly-ritualistic semi-annual oversight hearings. At them, Democrats praise the Bureau and press for more of the same, Republicans decry what's been done to date and how the agency is allowed to do it, and Mr. Chopra generally says what he thinks and does what he likes.

As always, we'll provide clients with in-depth analyses when Mr. Chopra's testimony is posted and following each of these hearings. A new element at them will be attention to FDIC-related issues such as recent failures and any role Mr. Chopra may have played in how failing-bank shards were sold off. We doubt the new inter-agency guidance on third-party relationships ([see FSM Report VENDOR10](#)) will get much attention even though its sweeping scope warrants careful review of its strategic impact, but this might come up and Mr. Chopra might even enter the capital-rewrite battlefield given the FDIC's role finalizing the impending [end-game proposal](#) and his own strong views on this topic. We'll also listen for the usual on "junk fees" along with an excoriating look at the CFPB's credit-card late-fee standards ([see FSM Report CREDITCARD36](#)) in light of a Friday *Washington Post* [article](#) strongly disputing them. We also expect the usual on small-business reporting, fair lending, and credit scoring and, of course, anything that arises at these contentious, volatile sessions.

Headlines From the Past Week's Daily Briefings

June 5

- **FRB-NY: Bank Discrimination Not To Blame For More Black Fintech PPP Loans** - A new [paper](#) from Federal Reserve Bank of New York staff concludes that differences in PPP applications between white and Black firms entirely explains why Black PPP borrowers received a greater share of loans from fintechs rather than banks.
- **GOP Leadership Presses Treasury, SEC On US/EU Climate Coordination** - Senate Banking Ranking Member Scott (R-SC) was joined by House Oversight Committee Chairman Comer (R-KY) in sending letters to Treasury Secretary [Yellen](#) and SEC Chairman [Gensler](#) taking serious issue with reports that the Department and Commission have been facilitating EU regulators' efforts to advance international climate-related disclosure policies and ESG initiatives.

June 6

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- **HFSC Tackles China, CBDC** - The committee [memo](#) for the HFSC National Security Subcommittee hearing makes it clear that China is the main focus of dollar-sovereignty considerations and CBDC will play a central role in this debate.
- **CFPB Wants Chatbots To Stop Talking** - The CFPB [released](#) an “issue spotlight” looking at how AI in general and chatbots in particular may adversely affect retail-finance consumers, concluding that chatbots may be useful for simple inquiries, but effectiveness wanes as complexity rises.
- **Third-Party Guidance Gets Still More Stringent** - After repeatedly saying that third-party risk management is a top priority, the banking agencies [finalized](#) a 2021 proposal ([see FSM Report VENDOR9](#)) tightening current requirements.
- **GOP Questions ONRRP, Treasury RWAs** - Although HFSC Financial Institutions Subcommittee Chairman Barr (R-KY) today highlighted the legislation on which the hearing was to [focus](#), much of the discussion over Treasury-management policy revisited last week’s debt-ceiling battles.

June 7

- **Basel Advances Supervisory Rewrite, Wants Quick End To End-Game** - The Basel Committee’s [release](#) of its latest meeting confirms that global regulators plan to revise 2012’s core supervisory principles ([see FSM Report REFORM92](#)) in light of recent events, releasing a consultation.
- **HFSC Urges Careful Use of China Sanctions** - At the HFSC National Security Subcommittee hearing on maintaining the dollar’s global dominance, Subcommittee Chairman Luetkemeyer (R-MO) and Reps. Petterson (D-CO) and Kim (R-CA) argued that the sanctions that would follow an invasion of Taiwan need to be used carefully to avoid unintended harm to the dollar’s global status.
- **Durbin Leads Renewed Charge For Credit-Card Network Choice** - As anticipated, Senate Judiciary Committee Chairman Durbin (D-IL) along with Sens. Welch (D-VT), Marshall (R-KS), and Vance (R-OH) [reintroduced](#) legislation to extend routing-system requirements to credit cards.

June 8

- **Bills Advanced re Emergency M&A, FDIC Ceiling** - The Congressional Record [includes](#) two Democratic bills with possible prospects despite House GOP control.
- **CFPB Extends Data Broker RFI Deadline** - The CFPB [extended](#) the comment deadline on its RFI inquiring about the business models and practices of data brokers.
- **Treasury Fairness/Compliance Initiative Targets Government Payments**- Treasury issued a new policy on promoting fair and effective compliance via a [memorandum](#) from Deputy Secretary Adeyemo.

- **Gensler Doubles Down On SEC Crypto Policy** - In [remarks](#) implicitly rebutting GOP assertions that the SEC has gone too far and new law expanding CFTC authority is needed, SEC Chairman Gensler strongly reasserted that most cryptoassets are securities subject to SEC oversight.
- **Bank Regulators, CFPB Encourage Appraisal Revaluation** - Reflecting ongoing efforts to address appraisal bias, the banking agencies and the CFPB proposed new interagency [guidance](#) on reconsiderations of value (ROV) for residential real estate, outlining the risks of deficient valuations and highlighting policies addressing them.

June 9

- **HFSC GOP Press Crypto Rewrites** - The HFSC majority [memo](#) for the full committee hearing on digital assets reinforces Chairman McHenry's (R-NC) determination to press ahead with legislation redesigning the federal crypto-regulatory ecosystem.
- **OCC Launches Consumer-Trust Campaign** - The OCC launched a new customer-trust initiative with a [new survey proposal](#) and RFI.

This Week

Tuesday, June 13

HFSC Hearing entitled: "The Annual Testimony of the Secretary of the Treasury on the State of the International Financial System." [10:00 am, 2128 RHOB]. Witness: **The Honorable Janet L. Yellen**, Secretary of the Treasury.

Senate Banking Hearing entitled: "The Consumer Financial Protection Bureau's Semi-Annual Report to Congress." [10:00 am, Dirksen Senate Office Building 538]. Witness: **The Honorable Rohit Chopra**, Director, Consumer Financial Protection Bureau.

HFSC Hearing entitled: "The Future of Digital Assets: Providing Clarity for the Digital Asset Ecosystem." [2:00 pm, 2128 RHOB]. Witnesses: **Mr. Jeremy Allaire**, Co-founder, Chairman, and CEO, Circle; **Mr. Coy Garrison**, Partner, Steptoe & Johnson LLP and former Counsel to Commissioner Hester M. Peirce; **Mr. Emin Gün Sirer**, Founder and CEO, Ava Labs; and **Mr. Thomas Sexton, III**, President and CEO, National Futures Association.

Wednesday, June 14

HFSC Hearing entitled: "The Semi-Annual Report of the Bureau of Consumer Financial Protection." [10:00 am, 2128 RHOB]. Witness: **The Honorable Rohit Chopra**, Director, Consumer Financial Protection Bureau.

Thursday, June 15

FHFA Public Listening Session. [1:00 pm, webcast]. Matters to be discussed: Fannie Mae and Freddie Mac's 2022-2024 Equitable Housing Finance Plans.

Future Events of Note

Wednesday, June 21

HFSC Hearing. [TBD]. Witness: **The Honorable Jerome H. Powell**, Chair, Board of Governors of the Federal Reserve System.

Thursday, June 22

Senate Banking Hearing. [TBD]. Witness: **The Honorable Jerome H. Powell**, Chair, Board of Governors of the Federal Reserve System.

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](#).

- [VENDOR10](#): After frequently citing third-party relationships and outsourcing as worrisome risk, the banking agencies have now finalized guidance first proposed in 2021 to govern them.
- [GSE-060823](#): As we will detail in a forthcoming in-depth report, the banking agencies' new "guidance" on third-party vendors essentially brings all nonbank counterparties with whom banking organizations deal under the agencies' enforcement thumb.
- [COMPENSATION36](#): Sen. Warren (D-MA) has introduced a revised version of legislation to ensure that both the FDIC and other federal banking agencies can demand that executives and others governing failed banks refund direct and indirect compensation to the federal government.
- [GSE-060223](#): As we detailed earlier this [week](#), the OCC's new enforcement [policy](#) is a paradigm shift in terms of the legal and reputational risk run by national banks and federal thrifts – that is, by the depository institutions that matter the most to mortgage finance.
- [CHINA17](#): While largely focused on countering fentanyl, today's Senate Banking hearing on China, saw Committee Democrats try to ascertain the details of a potential outbound investment [executive order](#) and Republicans addressing what they believe to be shortcomings in data privacy, AML regulation, and sanctions policy.
- [SUPERVISION2](#): Following a speech earlier this year by the Acting Comptroller arguing that some banks are "too big to manage" and the furor caused by recent failures, the OCC has significantly revised its enforcement policy.
- [GSE-052323](#): Today's HFSC hearing with Sandra Thompson was the anti-LLPA event we [anticipated](#) when it came to Republicans that also saw the stout defense Democrats were sure to provide combined with FHFA's resolute stand on doing nothing to change the LLPAs or guarantee-fees beyond what might come of the pending [RFI](#).
- [REFORM226](#): Describing the CEOs' statements at his last hearing as "the dog-ate-my-homework" excuses for grievous failings, Senate Banking Committee Chairman Brown (D-OH) also attacked

Republicans for placing blame on monetary policy, not the culture of supervisory laxity he details with various quotes from Trump Administration officials.

- **[CRYPTO44](#)**: Although there were still considerable party-line differences of opinion on stablecoin legislation, today's HFSC Digital-Assets Subcommittee hearing suggests that remaining divides are narrowing, increasing the odds of a new federal-regulatory framework.
- **[GSE-051723](#)**: With Republicans on the anti-LLPA warpath, FHFA is hoping to preserve as much of the current fee structure as possible without paying too high a political price, issuing a [request for information](#) (RFI) in hopes that letter-writing will keep everyone busy until Congress moves on to other matters.
- **[REFORM225](#)**: A joint hearing today of HFSC's Financial Institutions and Oversight Subcommittees expanded on themes at yesterday's full Committee session with bank regulators (see [Client Report REFORM224](#)) and Senate Banking's session with SVB's and SBNY's [CEOs](#), with First Republic's CEO now added to the Congressional firing line.
- **[REFORM224](#)**: In their first appearance following the reports on recent failures, FRB Vice Chairman Barr and FDIC Chairman Gruenberg were harshly criticized by Republicans for both the bank failures and recommended remedies.
- **[DEPOSITINSURANCE120](#)**: As the law requires and the FDIC Chairman promised after SVB and Signature Bank were declared systemic, the FDIC has now proposed a special assessment to compensate the Deposit Insurance Fund (DIF) for the cost of backing the two banks' uninsured deposits.