FedFin Daily Briefing

Thursday, June 1, 2023

BIS Head Presses for New-Age, Tough Bank Supervision

BIS General Manager Carstens today absolved central banks in general and the Fed by clear inference from fault in recent bank failures by way of recent interest-rate hikes. Noting also that the Basel III construct is very resilient in design and should have prevented these collapses and then the secondary systemic risk that resulted around the world, Mr. Carstens points instead to failures by bank senior management and directors to execute basic risk-management obligations. As a result, banking supervision needs to "up its game," gaining additional resources, maintaining operational independence, adopting a forward-looking approach, and becoming more "intrusive." The speech details how to move forward, noting for example the benefits of using certain forms of regtech and otherwise improving data analytics. No new Basel or BIS initiatives are noted.

Exec-Comp Clawback Bill Takes Shape

With additional GOP support now also on the Banking Committee, Sen. Warren (D-MA) today introduced a revised version of the earlier, also-bipartisan bill on executive-compensation clawbacks following mid-March bank failures (see FSM Report **COMPENSATION35**). The new bill covers only banks with assets above $10 billion and direct and indirect compensation over three years, a change from the prior bill's attempt to capture all compensation. However, the bill continues to apply also to institution-affiliated persons. Initial review indicates that the new measure also dropped a puzzling provision in the prior bill seeking to hold all investors in a parent holding company liable for FDIC IDI resolution costs. We expect rapid mark-up in Senate Banking and approval on the Senate floor. The odds in the House are less certain, but the bill nonetheless seems headed to the President's desk unless – and this is a significant unless – it because an engine for more controversial bank-reform proposals.

CFPB Sounds P2P Alarm

Building on its 2022 deposit-insurance representations circular (see FSM Report **DEPOSITINSURANCE113**), the CFPB today released an issue spotlight warning consumers that funds are at risk with payment apps such as Venmo. The FDIC is heightening pressure on nonbanks that gather funds which consumers may confuse with insured deposits (see FSM Report **DEPOSITINSURANCE117**), but doing so for payment apps is far more challenging because funds move quickly in and out of insured accounts. The new circular advises that these sweeps are not automatic and that consumer funds are thus at what it believes to be significant risk. Indeed, Director Chopra believes this risk so severe that he has elsewhere called it systemic. In an accompanying consumer release, the Bureau strongly suggests consumers move money through the traditional payment system, noting that it is working with state regulators to enhance disclosures so consumers better understand potential risk. It is unclear if the Bureau intends also to sanction companies that, while state-regulated, may come under its aegis via the Truth-in-Savings Act or other statutes at least under certain circumstances.

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.

- **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.

- **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).

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