FedFin Daily Briefing

Tuesday, June 13, 2023

Prime Brokers Face New Liquidity-Risk Standards

FINRA today released long-awaited proposals to ensure greater prime-broker liquidity, with prime brokers governed by the largest BHCs presumed to have sufficient liquidity based on Fed supervision of relevant enhanced liquidity standards. All other members are presumed to be illiquid if they borrow funds from a nonbank affiliate pending certain possible rebuttals, seventy percent of customer debits are financed via loans secured by customer assets, regular or stressed reserve calculations result in withdrawals, there is a fifty percent drop in bank credit lines in a rolling ninety day quarter or there is a similarly-timed fifty percent or more reduction in securities financing, fifty percent drop in settlement-bank or CCP facilities, or a settlement bank or CCP has provided notice of service termination. Even if exempted, members are to develop liquidity-risk management programs focused on thirty days and sufficient contingent funding. Companies that experience any of the events noted above or other liquidity stresses are to notify FINRA in two days and then provide it with their liquidity plans. FINRA may then take action, including providing a notice to limit or rescind the member's business. Comments are due by August 11.

Treasury Presses Private RTP

In remarks today, Treasury Assistant Secretary Graham Steele made it clear that Treasury wants to see private real-time payments continue in concert with FedNow to ensure resilience, noting also that instant payments pose risks that require new tools such as advanced cryptographic methods and controls such as transaction limits. Noting certain benefits with retail CBDCs (i.e., more access) and risks (e.g., privacy), Mr. Steele nonetheless emphasized that Treasury's work with an inter-agency council is ongoing and no CBDC decision has been made. Echoing Rohit Chopra's comments yesterday regarding open banking, Mr. Steele concluded with the need for CFPB standards addressing fintechs and other entities as well as praising finalization of recent third-party relationship standards (see FSM Report **VENDOR10**).

Chopra Stands Ground; Vance Considers Banking-Agency Overhaul

Today's Senate Banking Committee hearing with CFPB Director Chopra showcased the usual partisan divide over the Bureau's mission, with Democrats denouncing the 5th Circuit's decision and Republicans taking issue with the Bureau's franchise and activities as well as its credit-card late fee proposal (see FSM Report **CREDITCARD36**) and small business reporting rule. Sen. Tillis (R-NC) highlighted views he attributed to Obama-era prudential regulators that overdraft fee revenue is a risk that should be captured in CAMELS ratings, asking Director Chopra what consultations and analyses the Bureau has conducted on these fees and their interaction with bank safety and soundness. Director Chopra only emphasized that Bureau work has not sought to discourage the fees, but instead to make them more "appropriate" and competitive. Stating that the Fed is an overburdensome and ineffective regulator, Sen. Vance (R-OH) asked Mr. Chopra if he believes the OCC is a better regulator than the Fed; Director Chopra said it depends and that inconsistency in supervisory approach "has costs," also saying that a Balkanized regulatory system is not one that he would design from scratch. Sen. Vance then asked Director Chopra for his opinion about moving part or all of the Fed's supervisory power to the OCC; Director Chopra did not answer directly, only noting that the transfer of consumer powers to the CFPB has created more regulatory consistency. Sen. Vance said he is considering legislation that would make the banking system safer and more efficient but did not specify if it would involve the transfer of supervisory powers. He also raised concerns over banking system concentration, flagging JPM's acquisition of FRC; Director Chopra agreed that lower capital costs at TBTF banks threatens local banking but did not comment on the transaction.

Sen. Britt (R-AL) highlighted AI-driven consumer fraud; Director Chopra said consumer education will not solve issues related to generative AI, an issue he flagged as a serious threat. Sen. Warner (D-VA) raised concerns about AI-driven discrimination and whether Director Chopra believes the Bureau needs more regulatory tools; Mr. Chopra said that additional tools around identity verification might be needed and promised to work with the senator to determine whether more authority is needed.

Democrats Remain Cautious on Stablecoin Bill, Opposed to Crypto Jurisdiction Rewrite

As anticipated, the full HFSC hearing today on digital assets focused on draft legislation concerning payment stablecoins and digital asset market structure. Committee consensus does appear to be growing for the stablecoin bill, but partisan differences remain acute on the HFSC/Ag regulatory redesign for cryptoassets more generally. Chairman McHenry (R-SC) focused on the jurisdictional bill, inviting Democrats to work with him on a bill he will introduce one way or the other after the July 4th recess. Ranking Member Waters (D-CA) stated that more time is needed for feedback on both bills, noting in particular opposition to provisional registration. She also expressed concerns with the proposed stablecoin legislation regarding the lack of DEI protections, consumer protections, and oversight of state charted stablecoins. However, both Reps. Waters and McHenry expressed interest in continuing conversations. Digital Assets Subcommittee Chairman Hill (R-AR) again strongly supported the market structure bill, stating that it would prevent another FTX, protect customer assets, provide guardrails, and create clear oversight. Subcommittee Ranking Member Lynch (D-MA) reiterated Democratic opposition.

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.

- **REFORM227:** Treasury Secretary Yellen was pressed at today's HFSC hearing to comment on pending bank capital standards, the scope of FDIC coverage, and failed-bank resolutions.
- **CONSUMER50:** Reflecting Acting Comptroller Hsu's focus on consumer protection, fairness, and inclusion, the OCC is seeking views on what could become an annual survey of what consumers and especially bank customers think of their bank.
- **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.

Federal Financial Analytics, Inc.
2101 LStreet, N.W. – Suite 300, Washington, D.C. 20037
Phone (202) 589-0880
E-mail: info@fedfin.com www.fedfin.com

- **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.

Federal Financial Analytics, Inc.
2101 LStreet, N.W. – Suite 300, Washington, D.C. 20037
Phone (202) 589-0880
E-mail: info@fedfin.com www.fedfin.com