



FedFin Weekly Alert

Monday, July 10, 2023

❑ THE ESG JIHAD

As [anticipated](#), House Republicans have made July their “ESG month” with HFSC and other panels planning an array of actions culminating in an HFSC mark-up of as-yet-unintroduced legislation later this month. Before writing this off as part of the GOP’s pre-election “culture-war” campaign, it’s worth remembering that the Democratic-controlled Senate still approved a House measure overturning Department of Labor ESG pension-investment [rules](#); only a Presidential veto saved those rules and it might take more of them to counter what Republicans now have in store for the financial-services sector.

And what might that be? Our analysis of the HFSC GOP’s agenda placed asset managers squarely in the center of the Republicans’ target ([see Client Report ESG4](#)). This was made still clearer on Thursday when House Judiciary weighed in, claiming that the three largest U.S. asset managers “colluded” with climate-risk advocates to deprive credit- or investment-worthy fossil-fuel entities of essential financing. There is no way the Department of Justice or FTC will pick up this banner, but litigation or shareholder efforts could. This will further complicate life for ESG-oriented asset managers and the clients who like them, but these firms are also on the possible hook for BHC-chartering demands if GOP efforts to challenge the passivity of their investments bears any fruit with the Fed. We doubt it will, but then this will be based largely on a read of the law, not a conclusion about how devoutly the Board would hope to stay out of this fray.

As always, we’ll be watching, analyzing, and forecasting. And, as always, send us comments, questions, and any requests on key issues to watch.

Headlines From the Past Week’s Daily Briefings

[July 3](#)

- **UK Targets PE/Private-Credit Interconnections** - Although U.S. regulators have begun to talk about inter-connections ([see FSM Report SYSTEMIC95](#)), the Bank of England’s top official for international finance [laid out](#) new U.K. policy to address them.
- **IOSCO Sticks With SOFR** - Acting on concerns often expressed by SEC Chairman Gensler, IOSCO [published](#) its final assessment of USD LIBOR, judging two credit-sensitive alternatives problematic and blessing limited use of certain term SOFRs.

July 4

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- No news of note.

July 5

- **Basel Targets Credit-Risk Models, Assumptions** - The Basel Committee issued a [newsletter](#) highlighting recent internal credit-risk discussions as well as supervisory action and remaining concerns in this area.
- **FSB/IOSCO Focus on OEF Redemption Risk** - Departing from the SEC's swing-pricing [approach](#) to open-end fund risk, global regulators proposed a new exit-fee construct.

July 6

- **Basel Redesigns Global Bank-Supervision Construct** - As promised at its last [meeting](#), the Basel Committee [released](#) a public consultation on revisions to its 2012 core supervisory principles ([see FSM Report REFORM92](#)).
- **Accommodative CRE Policy Goes Live** - Publication in the *Federal Register* [makes effective](#) a finalized policy statement issued by the banking agencies and NCUA late last week on how financial institutions are to handle troubled commercial real estate (CRE) loans.
- **Senate Dems Demand CFPB Voice-Cloning Action** - Following his [letter](#) to large bank CEOs regarding AI fraud, Chairman Brown (D-OH) along with Sens. Menendez (D-NJ), Reed (D-RI), and Smith (D-MN) sent a [letter](#) to Director Chopra urging action against AI-related financial scams.
- **FSB Turns to GSIB Resolvability** - The FSB's plenary [announced](#) that recent events have spurred it to assess the resolvability of GSIBs and other large banks, providing neither timeline nor focus for this work.
- **FRB-NY Study Advances Wholesale Digital Currency** - Although making clear that it sets no new policy nor endorses any CBDC action, the Federal Reserve Bank of New York's Innovation Center published a DLT proof-of-concept [finding](#) that shared ledgers can effectively support both wholesale domestic interbank and cross-border payments.

July 7

- **House Judiciary Joins GOP Asset-Manager ESG Attack** - Continuing the GOP [campaign](#) against ESG, House Judiciary Chairman Jordan (R-OH) and Reps. Massie (R-KY) and Bishop (R-NC) sent [letters](#) to the leadership of BlackRock, Vanguard, State Street Global Advisers, the Glasgow Financial Alliance for Net Zero, and the Net Zero Asset Managers initiative, claiming that what they call "collusive agreements" violate antitrust law.

- **FRB-KC: Farm Credit System Mergers May Influence Ag-Bank Portfolio Strategy** - New [research](#) from Federal Reserve Bank of Kansas City staff concludes that, while Farm Credit System mergers over the past twenty years had relatively minor effects on agricultural-bank profitability and efficiency, they may have altered bank portfolio decisions with broader implications both for banks and the communities they serve.
- **CFPB, Treasury, HHS Launch Interagency Inquiry Into Medical-Payment Products** - As part of the White House [initiative](#) to address medical-sector “junk fees” and consumer protection, the CFPB was joined by HHS and Treasury in issuing an [RFI](#) on high-cost specialty financial products it says harm medical patients by driving up debt.
- **FHFA Joins Repeat-Offender Crackdown** - Acting on the “repeat-offender” crackdown initiated by the [CFPB](#) and recently picked up by the [OCC](#), FHFA issued a [proposed rule](#) that would revise its Suspended Counterparty Program (SCP) regulation to authorize FHFA to immediately suspend business between the GSEs and counterparties who are found to have committed civil or criminal misconduct in connection with real property management or ownership.

This Week

Tuesday, July 11

Senate Banking Subcommittee on Housing, Transportation, and Community Development Hearing entitled: “Exploiting the American Dream: How Abusive Land Contracts Prey on Vulnerable Homebuyers.” [2:30 pm, Dirksen Senate Office Building 538]. Witness: **Ms. Sarah Bolling Mancini**, Senior Attorney, National Consumer Law Center.

Wednesday, July 12

HFSC Hearing entitled: “Protecting Investor Interests: Examining Environmental and Social Policy in Financial Regulation.” [10:00 am, 2128 RHOB]. Witnesses: TBD.

SEC Open Meeting. [10:00 am, virtual]. Matters to be discussed: whether to adopt amendments to certain MMF rules; to adopt amendments to Form PF to revise reporting requirements for large liquidity fund advisers; to propose amendments to the broker-dealer customer protection rule to require certain broker-dealers to compute their customer and broker-dealer reserve deposit requirements daily rather than weekly; to seek comment on whether similar daily reserve computation requirements should apply to broker-dealers and security-based swap dealers with respect to their security-based swap customers.

Senate Banking Executive Session. [2:00 pm, Capitol Building S-216]. Matters to be discussed: A vote on the following nominations: **The Honorable Philip Nathan Jefferson**, of North Carolina, to be Vice Chairman of the Board of Governors of the Federal Reserve System; **The Honorable Lisa DeNell Cook**, of Michigan, to be a

Member of the Board of Governors of the Federal Reserve System; and **The Honorable Adriana Debora Kugler**, of Maryland, to be a Member of the Board of Governors of the Federal Reserve System.

Senate Banking Subcommittee on Economic Policy Hearing entitled: “Bank Mergers and the Economic Impacts of Consolidation.” [2:30 pm, Dirksen Senate Office Building 538]. Witness: **Ms. Morgan Harper**, Director of Policy and Advocacy, American Economic Liberties Project.

Thursday, July 13

HFSC Subcommittee on Capital Markets Hearing entitled: “Reforming the Proxy Process to Safeguard Investor Interests.” [10:00 am, 2128 RHOB]. Witnesses: TBD.

HFSC Subcommittee on Oversight and Investigations Hearing entitled: “Oversight of the Proxy Advisory Industry.” [2:00 pm, 2128 RHOB]. Witnesses: TBD.

Friday, July 14

HFSC Subcommittee on Housing and Insurance Hearing “How Mandates Like ESG Distort Markets and Drive Up Costs for Insurance and Housing.” [9:00 am, 2128 RHOB]. Witnesses: TBD.

Future Events of Note

Tuesday, July 18

HFSC Subcommittee on Capital Markets Hearing on the SEC Division of Corporation Finance. [10:00, webcast]. Witnesses: TBD.

HFSC Subcommittee on Financial Institutions and Monetary Policy Hearing on climate-risk and financial regulators. [10:00, webcast]. Witnesses: TBD.

Wednesday, July 19

HFSC Committee Markup. [TBD]. Matters to be discussed: Stablecoin and crypto market structure bills, flood insurance legislation and a resolution that would nullify the CFPB's small-business data collection rule.

Wednesday, July 26

HFSC Committee Markup. [TBD]. Matters to be discussed: ESG-related bills.

Thursday, July 27

HFSC Committee Markup. [TBD]. Matters to be discussed: National security bills.

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](#).

- [GSE-070523](#): As an in-depth FedFin analysis today addresses ([see FSM Report REALESTATE25](#)), the banking agencies and NCUA late last week issued far-reaching [guidance](#) encouraging loan accommodations and even forbearance for troubled commercial real estate (CRE) projects, including multifamily obligations.
- [REALESTATE25](#): The banking agencies and NCUA have agreed on a final policy statement providing guidance for how financial institutions are to handle troubled commercial real estate loans, giving banks considerable latitude to forbear when borrowers are unable to meet their obligations but are deemed to be able to pay at least some of it over time.
- [GSE-063023](#): In non-public remarks ahead of a presentation by FedFin managing partner Karen Petrou, Sen. Jack Reed (D-RI) laid out what he thinks banking agencies will do next, doubtless based on what they've told him that they'll do next.
- [COMPENSATION37](#): The Senate Banking Committee has overwhelmingly approved bipartisan legislation to reform executive compensation following larger insured-depository institution (IDI) failures, with parent-company executive compensation also at risk in some circumstances.
- [ESG4](#): Late Friday, GOP HFSC Members issued a withering [report](#) criticizing the Biden Administration for using financial regulators to do its political bidding on ESG objectives that it believes "contort" financial regulators into political instrumentalities that put retail investors at risk.
- [GSE-062223](#): A [Bloomberg article](#) tells a fascinating tale of high-flying personal real-estate investment and other alleged acts of self-dealing at the expense of the seemingly-hapless Federal Reserve Bank of San Francisco.
- [FEDERALRESERVE74](#): Chairman Powell's HFSC appearance today led to unusually substantive discussion of pending financial-policy actions.
- [GSE-061523](#): The FHFA's [report to Congress](#) this year was eagerly awaited to see if it shed any insight into what FHFA might do after its listening [sessions](#) and Sandra Thompson's [promise](#) to do something sometime soon about the Home Loan Banks.
- [CONSUMER51](#): With Rep. Andy Barr (R-KY) leading the attack with an accusation of CFPB "McCarthyism," today's HFSC hearing with Director Chopra tracked much in yesterday's Senate Banking [session](#).
- [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.