



FedFin Weekly Alert

Monday, July 31, 2023

❑ FEW SURPRISES, MUCH CONSTERNATION

There is little in the new capital framework we did not forecast for new capital rules after the March bank failures ([see Client Report REFORM219](#)) and what we missed was later presaged in Vice Chair Barr's recent speech ([see Client Report CAPITAL228](#)). However, as we've also said many times, many devils lurk in regulatory-capital details. We know the agencies' capital-impact bottom line because the [FDIC and Fed](#) each outlined this at contentious meetings approving the proposal for public comment. We also know that Republicans really don't like the rule even if they haven't read it and that key decision-makers – most notably Chair Powell – are hedging their affirmative votes for releasing the proposal with careful caveats of what they want to see in a final rule. Thus, careful analytics are essential to effective assessments of winners and losers as a result of this complex package, especially if one looks – as FedFin will – at big-picture implications – i.e., those for the economy, financial system, and economic equality – as well as at sector- and institution-specific provisions not just in key asset classes based on specific risk weightings. These weightings intersect with critical factors such as how capital is to be defined and how this new framework of credit, market, and operational-risk rules hold together – if it does – and then intersects with the rest of the regulatory framework's liquidity, stress-testing, and supervisory sanctions. Just one day into the new rules, we're already finding key provisions that seem simply to make no sense – see for example our initial assessment of the outlook for [mortgage finance](#).

So we shall tread on into the swamp of this enormous rule, identifying key strategic and policy questions through both targeted analytics and in-depth assessments of key sections of the new capital construct, bearing in mind not just what the agencies say – assuming we can tell – but what they mean, might not mean, and whether getting what they seem to want would get them to the banking system they say they want as well as to one in which regional banks see a future for themselves and the markets they serve.

Headlines From the Past Week's Daily Briefings

[July 24](#)

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- **FDIC Clamps Down On Uninsured Deposit Reporting** - Likely reacting to mid-size bank accusations that large banks are under-counting uninsured deposits, the FDIC posted a financial institution [letter](#) highlighting that some financial institutions have incorrectly estimated uninsured deposits on their Call Reports.
- **Fed Archegos Order Lays Out Broader FBO Issues** - Joining the U.K.'s record-breaking [order](#), the Federal Reserve added \$268.5 million to the \$387 million fine imposed on Credit Suisse for governance and numerous other risk-manage failings related to its \$5.5 billion Archegos loss.
- **GAO Anticipating Mark-Ups, Calls for Stablecoin, Crypto Spot Market Legislation** - Ahead of HFSC's mark-up, GAO released a [report](#) sure to be cited as it calls for statutory change to address regulatory gaps in stablecoins and spot markets.

July 25

- **Key Democrat Takes On Fed Rate Hikes** - Ahead of the FOMC meeting, Joint Economic Committee Chair Heinrich (D-NV) [sent a letter](#) to Fed Chair Powell cautioning against additional policy tightening.
- **Second HFSC Markup Targets Stablecoins, Regulatory Restrictions, ESG** - HFSC has now added another day to its mark-up calendar, moving the stablecoin and ESG bills doubtless in order to avoid an endurance contest before the recess and still meet Chairman McHenry's (R-NC) commitments.
- **Senate GOP Tries to Block Capital Rewrite** - Just days before the banking agencies take up new capital rules, Senate Banking Ranking Member Scott (R-SC) and ten other committee Republicans sent a [letter](#) to Chairman Powell demanding greater transparency and prior consultation.
- **Waters Presses FHFA for FHLB Reform** - Following FHFA listening [sessions](#) and in anticipation of a [final report](#) on the FHLB system, HFSC Ranking Member Waters (D-CA) sent a [letter](#) to FHFA Director Thompson laying out a series of recommendations to significantly reform the system.
- **Ag Committees Slam SEC Custody Proposal** - In a [letter](#) to SEC Chairman Gensler, Senate Agriculture Committee Ranking Member Boozman (R-AR) and Chairwoman Stabenow (D-MI) along with House Ag. Committee Chairman Thompson (R-PA) and Ranking Member Scott (D-GA) raised strong objections to what they called serious flaws in the SEC's proposed custody rule ([see FSM Report CUSTODY5](#)).
- **Warren, Scott Renew Fed-Ethics Campaign** - Continuing their bipartisan campaign against the Fed, Sens. Warren (D-MA) and Scott (R-FL) sent a [letter](#) to Fed IG Bialek highlighting potential conflicts of interest possible due his salary, which he [said](#) earlier this year is derived from the average divisional director yearly pay plus their bonus.
- **FSB Maintains NBFI Focus** - The FSB's Secretary General, John Schindler, [outlined](#) the global regulator's NBFI action plan.

- **Key Treasury Aid Presses Tough Regional-Bank Regs** - Although Treasury has no direct role in bank regulation, [remarks](#) from Assistant Secretary Graham Steele make clear how closely aligned the department is with Fed thinking.

July 26

- **Senate Democrats Stand Firm On “Junk Fee” Campaign** - The lightly-attended Senate Banking Financial Institutions Subcommittee hearing on banking and consumer fees showcased broad Democratic alignment with the Administration’s “junk fees” campaign and persistent Republican aversion to this effort as well as to the CFPB.
- **CFPB Flags UDAAP, Other Problematic Practices for Enforcement** - The CFPB’s latest supervisory [report](#) not only details recent actions and priorities, but also expressly stipulates that certain activities identified in the course of supervision that have yet to be addressed by formal agency action are UDAAP.
- **SEC Targets AI Advice** - Acting as anticipated following Gary Gensler’s fiery talk last week about AI [risk](#), the SEC voted 3-2 to propose new rules curtailing what it believes to be broker dealer and investment-adviser conflicts of interest due to predictive analytics.
- **Crypto-Jurisdiction Bill to Advance; Stablecoin Measure Likely to do so Tomorrow** - Chairman McHenry (R-NC) and Ranking Member Waters (D-CA) announced at the HFSC markup that bipartisan negotiations on the committee’s [stablecoin bill](#) continue and despite the absence of any breakthrough.
- **DOJ Officials Seeks Merger Answers** - In [remarks](#), Policy Director David Lawrence of DOJ’s Antitrust Division went beyond new, draft DOJ/FTC merger guidelines ([see FSM Report MERGER12](#)) to lay out questions on which the agencies particularly seek answers.
- **Powell Stresses Bank Discount Window Readiness** - FRB Chairman Powell’s press conference focused almost entirely on monetary policy, but the chair agreed that the discount window performed badly during the recent crisis and that banks need to ensure ready access.

July 27

- **FSB Tries to Calm CoCo Confusion** - Doubtless responding to the CoCo chaos when Credit Suisse failed, the FSB [issued a report](#) laying out how cross-border crisis-management groups are to handle unallocated TLAC (UTLAC) such as the “alternative Tier 1” bonds popular in the EU.
- **FDIC 3-2 Vote Presages Knock-Down Basel Battle** - As [anticipated](#), the FDIC voted 3-2 to issue a sweeping rewrite of U.S. regulatory capital requirements.

- **Divided, Cautious Fed Advances End-Game, GSIB Rewrites** - As [anticipated](#), Gov. [Bowman](#) voted against the new [capital framework](#), as did Gov. [Waller](#); as a result, the vote was 4-2.
- **Stablecoin Bill Advances, Compromises to Come** - At a fiery HFSC markup, Chairman McHenry (R-NC) announced that bipartisan negotiations had broken down largely due to the White House, choosing to proceed to a final package as he remains open to amendment before floor action.
- **House Republicans Skewer Basel Rules** - Hill comment so far in response to the new capital rules is sparse.

July 28

- **FSOC Considers Nonbank Systemic Risk, Credit-Based LIBOR Replacements** - At today's FSOC meeting, participants as usual said nothing about the closed-door agenda, which notably featured more discussion of the systemic risk that may be posed by nonbank mortgage servicers.
- **Agencies Take Action to Enhance Emergency Liquidity, Whitewash Discount Window** - As presaged at Chair Powell's [press conference](#), the banking agencies [issued](#) liquidity-planning guidance designed both to ensure adequate preparation for acute liquidity stress and take the stigma off discount-window draws.

This Week

No meetings of note.

Future Events of Note

No meetings of note.

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-072823](#)**: We've much more to do to determine the strategic and policy impact of the new credit-, market-, and operational-risk capital rules singly and collectively – a complex task given the 1,087-page rulemaking made harder by some extremely-arcane language that may either mask what the agencies mean or differ from what they meant to mean.
- **[CAPITAL229](#)**: [As promised](#), we plan in-depth coverage of the Fed and FDIC meetings tomorrow as well as of the capital rewrites they are set to propose no matter all the warning shots

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from [Congressional Republicans](#).

- **[MERGER12](#)**: Building on a request for comment, the Department of Justice (DOJ) and Federal Trade Commission (FTC) have now proposed specific revisions to U.S. merger policy that significantly redirect the manner in which M&A transactions – even if only for minority positions – will be considered.
- **[DEPOSITINSURANCE121](#)**: In the wake of today's Senate Banking deposit-insurance reform hearing, it seems certain that there will be no legislation in the near term and most likely in this Congress to increase FDIC-insurance thresholds.
- **[CLIMATE16](#)**: As [anticipated](#), Republicans continued their [campaign](#) against ESG at today's HFSC Financial Institution Subcommittee hearing on climate risks, reiterating arguments that a regulatory focus on climate risk signals financial institutions to cease lending to carbon intensive industries.
- **[MMF20](#)**: The SEC has significantly revised its proposed MMF-reform standards, eliminating a controversial swing-pricing approach to reduce first-mover advantage in favor of new redemption fees at institutional prime and tax-exempt funds.
- **[GSE-071823](#)**: Reuters is reporting [today](#) and other sources are echoing three regulatory sources saying that the impending capital rewrite will propose risk weighted assessments (RWAs) between 40 and 90%, up from the minimum 20 and 70% [Basel standards](#).
- **[GSE-071123](#)**: As we detailed [yesterday](#), FRB Vice Chair Barr laid out what he called a holistic view of bank capital standards that encompasses [end-game rules](#), stress testing, post-SVB lessons, GSIB restrictions, and resolvability.
- **[CAPITAL228](#)**: FRB Vice Chairman Barr's speech [today](#) outlines near-term U.S. regulatory-capital policy, confirming our [earlier assessment](#) that a sweeping proposal will soon be released.
- **[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.