FedFin Daily Briefing

Friday, July 7, 2023

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 late yesterday 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. As previously noted (see *Client Report* **ESG4**), Republicans have prioritized the extent to which asset managers vote on proxy proposals and allocate holdings, noting in particular that this may violate passive-investment standards that exempt asset managers from being considered controlling persons for purposes of BHC-charter requirements. As our weekly analysis will detail, this issue is also a major concern of HFSC Republicans. Citing the potential negative effects on the fossil fuel industry, the letters argue that these agreements harm competition and are illegal under the Sherman Act, regardless of whether there is an effect on prices. They demand all documents related to decarbonization, carbon-related investment policies or strategies, interorganizational agreements, and internal analysis on the agreements' price and competition impact. July 20 is given as a deadline for a response.

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. Although total ag-bank operational loan volume was relatively unchanged after FCS mergers, the study finds that they likely increased the volume of bank agricultural real estate loans and thereby decreased the share of operational loans in bank portfolios. The study uses the Fed's merger-adjusted database of bank balance sheet and income statements as well as call reports to analyze lending, profitability, and efficiency trends for banks and FCS associations. It highlights twenty FCS association mergers since 2009, identifying ten local markets of interest as areas in which small associations were acquired by large ones with potentially large effects on local markets and agricultural banks. The author does not offer policy recommendations, only underscoring the potentially important effects of FCS mergers on agricultural-bank outcomes.

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 today 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. The RFI focuses on consumer experiences with medical credit cards, installment loans, and other medical-payment products, highlighting concerns over healthcare provider incentives to avoid the insurance-claims process and financial assistance programs. In its release announcing the RFI, the Bureau also promises action soon on credit origination, debt collection, and credit reporting practices in this sector. Questions in the RFI address market concentration, the costs and benefits of medical products, fees and interest rate terms, average individual debt on medical credit cards as well as consumer protection and exemptions, and the extent to which products are used to settle incorrect billing. Comments are due 60 days after *Federal Register* publication.

FHFA Joins Repeat-Offender Crackdown

Acting on the "repeat-offender" crackdown initiated by the CFPB and recently picked up by the OCC, FHFA today 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. Reasoning that SCP's current scope is too narrow because it does not authorize suspension of counterparties on the basis of civil enforcement actions, FHFA finds that this oversight poses significant risk to the GSEs. The proposal would therefore amend the definition of "conviction" in the SCP to include Federal and state agency consent orders regardless of whether a counterparty admits misconduct. The NPR also proposes to amend the procedures governing suspension orders on grounds that these "excessively constrain" FHFA in certain circumstances. Comments are due within 60 days of *Federal Register* publication.

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.

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- **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.

- **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.

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