



Tuesday, July 11, 2023

## **FRB-NY Staff: Climate Transition Risk Meaningful, Manageable**

A [new blog post](#) from Federal Reserve Bank of New York staff concludes that climate-transition risk in bank loan portfolios is meaningful, but also manageable. The paper uses general-equilibrium models to focus on forward-looking climate risk in scenarios based on current policy as well as orderly and disorderly transitions, an approach it believes differ from much retrospective analysis of carbon emissions as a measure of transition risk. In general, transition risk related to the most climate-sensitive industries declines over time as banks are found to self-select greener sectors for forward-looking credit exposures. The paper posits that this may result in severe credit shortages for entities that are more sensitive to climate risk, perhaps forcing them to seek financing outside the banking sector.

## **CFPB, OCC Team Up To Sanction BofA Transaction, Card Account Practices**

The [CFPB](#) and OCC today took action against Bank of America in ways that renew questions about potential overlaps between the CFPB's jurisdiction and that of the banking agencies. The costlier of the two actions from the [CFPB ordered](#) the bank to pay over \$170 million in civil monetary penalties and restitution for a range of practices the Bureau regards as abusive and deceptive ([see FSM Report CONSUMER39](#)). These include "double-dipping" NSF fees, withholding credit card customer rewards, and opening accounts without customer consent, actions the Bureau alleges are violations of the CFPA, TILA, and FCRA. The OCC's [order](#) focuses on representment fees, fining the bank \$60 million on grounds that the fees are unfair and deceptive under the FTC Act. The CFPB's order also lays out how it finds BofA to have been a "repeat offender," but neither the Bureau nor OCC links this to any of the penalties Mr. Chopra has [suggested](#) or Mr. Hsu has targeted in his "[too-big-to-manage](#)" concerns.

## **GOP Urges Supreme Court to Uphold Fifth Circuit CFPB Decision**

Continuing the GOP's longstanding campaign to redesign the CFPB, HFSC Chairman McHenry (R-NC), Senate Banking Ranking Member Scott (R-SC), and 130 Members of Congress filed an [amicus brief](#) today urging the Supreme Court to uphold the Fifth Circuit's [decision](#) declaring the CFPB's funding mechanism unconstitutional. They reiterate that the Bureau receiving funding from the Fed results in what they claim is an unconstitutional transfer of Congressional appropriations power and thus a violation of the separation-of-powers clause and call for the Court to affirm that the CFPB is subject to the legislative appropriations process. The GOP's conclusions are unsurprising not only in fact but also as a stark contrast to the Democrats' [brief](#) on this case. Sent in May by Senate Banking Chairman Brown (D-OH), HFSC Ranking Member Waters (D-CA), and 132 other Members, it argued that the CFPB follows the funding model of several other federal bodies such as the OCC and that its political independence is crucial to its mission. Where the Court lands will not be known until sometime later this year or in 2024, when the decision will also need to address the legal standing of prior CFPB actions if the Court decides against the current funding model.

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### **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](http://www.fedfin.com) or clients may

obtain the reports/analyses by e-mailing [info@fedfin.com](mailto:info@fedfin.com) giving the requested item name, firm, and e-mail address. To learn more about *GSE Activity Reports*, click [here](#).

- **[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.
- **[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.