



SEC Concedes, Drops MMF Swing Pricing

In a startling bow to industry comments, the SEC today finalized MMF rules for institutional prime and tax-exempt funds that dispense with the proposal's swing pricing ([see FSM Report MMF19](#)). Instead, covered funds will need not only to increase their liquidity as initially proposed, but now also impose redemption fees when redemptions exceed five percent at more than minimal cost in order to address first-mover advantage in stress scenarios. The rule also ends the redemption gates required in the 2014 rule the Commission now concludes exacerbated the 2020 dash for cash. We will shortly provide clients with an in-depth analysis of the final rules; on first assessment, we conclude that it may enhance the relative appeal of bank deposits which are not subject to comparable investor risk.

HFSC Bickers Over ESG, SEC Authority, Investor Rights

Today's ESG hearing was the partisan show-down we [anticipated](#) – indeed, Rep. Sherman (D-CA) denounced the GOP for “waging war” against capitalism like Leon Trotsky. Much of the hearing centered on proxy voting, with all witnesses other than Minnesota AG Keith Ellison arguing that ESG-driven investments disadvantage investors and impair capital markets. Chairman McHenry (R-NC) opened by calling the SEC's ESG-approach politically motivated and urged Congress to address “burdensome” climate-risk reporting standards, later focusing his questioning on the SEC's regulatory authority over climate-related disclosures as well as materiality standards. In addition to calling HFSC the “committee of culture wars,” Ranking Member Waters (D-CA) also took issue with what she said was a lack of DEI-related transparency and accountability at private equity firms and VCs. Rep. Luetkemeyer (R-MO) raised concerns over asset manager legal risk in the absence of disclosure standards for ESG-specific investment risks. Rep. Scott (D-GA) raised concerns that the SEC's proposed Scope 3 disclosure requirements would place unmanageable compliance burdens on small businesses and farms as well as negatively impact small-business lending outcomes. Several Republicans also took issue with what they called mission creep at the SEC and argued that most of the SEC's proposed disclosure requirements are immaterial, with Rep. Hill (R-AR) asserting that current law already covers material disclosures. Rep. Luetkemeyer also compared the Commission to the CFPB for what he said was a regulation by enforcement approach. Although James Copland of the Manhattan Institute called asset managers an “oligarchy” in his testimony, the hearing did not address asset manager “collusion,” an issue which as [noted](#) has been handed off to House Judiciary.

Fed Nominations Advance

As [anticipated](#), Senate Banking today approved the nominations of all three Federal Reserve Board nominees for the full Senate. However, the prospects for rapid floor action are brightest for Phillip Jefferson, who received unanimous support for his nomination as Vice Chair. The nominations of Adriana Kugler and Lisa Cook each moved forward by 13-10 votes, with Sen. Mike Rounds (R-SD) siding with Democrats. Both of these nominations are likely also to be approved, but it may take months to do so.

Warren Heightens Anti-Merger Campaign

Republicans were absent today from Senate Banking's Economic Policy bank-merger hearing. Chair Warren (D-MA) reiterated her strong opposition to virtually all mergers, indicating her plans to reintroduce anti-merger legislation from prior Congresses ([see FSM Report MERGER8](#)). She also reiterated prior attacks on Secretary Yellen and Acting Comptroller Hsu, whom she again said were unduly supportive of

big-bank mergers, even though Mr. Hsu expressed significant concerns about many such transactions on [Monday](#). Sen. Warren also criticized the FDIC for what she believes was an opaque decision-making process allowing First Republic's sale to JPMorgan. Sens. Jack Reed (D-RI) and Van Hollen (D-MD) questioned the impact of ongoing mergers on community banks, with Sen. Reed also suggesting the need for improved financial-stability criteria and the problematic nature of private-equity takeovers of banking organizations. Witnesses generally opposed bank mergers, although the spokesman from America First suggested that the primary policy focus should be reducing the cost of technological innovation for community banks, not barring mergers.

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-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.