



Tuesday, July 18, 2023

Barr Puts AI On Fair-Lending Watch

Reflecting the Administration's new [focus](#) on AI and SEC Chairman Gensler's [concerns](#), Vice Chair Barr today [made it clear](#) that the FRB is also mindful of emerging AI risks. As a result, Fed supervisors will evaluate firms on whether they have appropriate risk management and controls for AI-related factors, with Mr. Barr emphasizing that AI-lending models should be transparent and explainable to prevent digital or reverse redlining. Mr. Barr's comments here also reflect those at the [CFPB](#), which has taken strong action against digital marketing with possibly exclusionary impact. The Vice Chair also highlights the Fed's reliance on the disparate impact test to evaluate fair lending violations, noting that Fed examinations take into account mortgage-lending records, pricing disparities, customer complaints, marketing and outreach, loan officer discretion, and branching strategies. Referencing the banking agencies' [statement](#) last year, he also emphasizes the utility of Special Purpose Credit Programs. Mr. Barr's comments also mention the long-pending CRA proposal ([see FSM Report CRA32](#)), again providing no timeline for finalization.

IMF Opposes Crypto Sovereign Currency, Emphasizes AML/Systemic Risk

The IMF [today](#) published cryptoasset recommendations previously submitted to the GHOS. Organized around "three pillars" of sound macro-policy, transparency, and effective implementation, the IMF recommends ensuring that monetary-policy frameworks protect sovereign currencies, ensuring also that cryptoassets are not granted official currency-or legal-tender status – a blow to nations such as El Salvador that have done so. The IMF also urges that crypto capital flows be integrated in existing capital-flow regimes as well as unambiguous crypto tax treatment – an issue now pending in the U.S. Taking on another U.S. issue Sens. Warren (D-MA) and Marshall (R-KS) plan to [revive](#), the IMF also recommends strong AML/CFT rules and – a nod to the FSOC – systemic stablecoin standards ([see FSM Report SYSTEMIC95](#)). The IMF in September will release a joint IMF-FSB synthesis paper highlighting the building blocks for effective crypto policies, presumably building on the new principles for both cryptoassets and stablecoins released yesterday by the [FSB](#).

HFSC GOP Advances Beneficial Ownership Legislative Rewrite

Today's HFSC National Security Subcommittee hearing on FinCEN's beneficial ownership rulemaking revisited recent bipartisan [concerns](#). These included implementation, transparency, outreach, compliance costs, agency funding, and law enforcement and financial institution BOI registry access. Subcommittee Chairman Luetkemeyer (R-MO) raised concerns over FinCEN's small business outreach and education as well as the January 1 BOI effective date, criticizing the rulemaking for what he said was undue complexity. Ranking Member Beatty (D-OH) defended FinCEN's funding, but also agreed with Rep. Luetkemeyer's concerns over flaws in the BOI draft filing form, restricted BOI database access, and FinCEN's failures to engage small-businesses. Full Committee Chairman McHenry (R-NC) emphasized that Congress must act to delay the rule's effective date if changes are not made. GOP witnesses excoriated FinCEN's proposal on grounds that it is unduly complex and does not adhere to Congressional intent, raising concerns that the enforcement timeline and reporting requirements will seriously burden small businesses. The sole Democratic witness echoed many of these concerns but argued that the agency is under-funded, especially in light of verification costs critical to its BOI registry. Arguing that low CTR thresholds and vague SAR definitions overwhelm FinCEN's reporting system and thus law enforcement, Rep. Loudermilk (R-GA) said he is working on legislation to modernize currency transaction and suspicious activity reports. Reps.

Williams (R-TX) and Nunn (R-IA) boosted their bills noticed for the hearing that would target FinCEN's small-business coordination, limit the rulemaking's "escape hatch," and extend BOI filing deadlines.

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](#).

- **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.
- **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.