FedFin Daily Briefing

Monday, July 24, 2023

FDIC Clamps Down On Uninsured Deposit Reporting

Likely reacting to mid-size bank accusations that large banks are under-counting uninsured deposits, the FDIC today posted a financial institution letter highlighting that some financial institutions have incorrectly estimated uninsured deposits on their Call Reports. The FDIC thus instructs IDIs with more than $1 billion in assets to ensure that uninsured-deposit totals include those collateralized by pledged assets and intercompany deposit balances.

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. The Fed's order is an important reminder that FBO branches may be held to full account for failings tolerated at the time by U.S. or home-country regulators (who today also joined in this enforcement action). Among the problems identified in the order is CS's failure to maintain adequately liquidity both with regard to stress-test results and an overall buffer. We continue to expect the Federal Reserve to revisit the controversial decision in the tailoring rules (see FSM Report **SIFI34**) to exempt FBO branches and agencies from U.S. liquidity rules; this finding may provide the Fed with an additional rationale for doing so in forthcoming liquidity revisions. Another provision in the order sanctions CS for failing to have an effective reputational risk-management function, an issue likely applicable to other FBOs.

GAO Anticipating Mark-Ups, Calls for Stablecoin, Crypto Spot Market Legislation

Ahead of HFSC's mark-up, GAO today released a report sure to be cited as it calls for statutory change to address regulatory gaps in stablecoins and spot markets. It notes that the lack of stablecoin reserve, disclosure, and redemption requirements may pose consumer-protection and financial-stability risks. The HFSC stablecoin bill addresses these issues, albeit whether it is to GAO's liking remains to be seen. The report also states that spot markets outside Federal Regulation increase the risk of fraud and manipulation, calling for legislation; HFSC's crypto-jurisdiction bill gives the CFTC jurisdiction here, a non-controversial extension of authority in a bill to which Democrats have many remaining objections. It also recommends that the banking agencies, CFPB, SEC, and CFTC establish a formal coordination mechanism to identify and mitigate blockchain-related risks, noting that the agencies identified stablecoin's financial stability risks in 2019 but did not recommend Congressional action until late 2021 (see *Client Report* **CRYPTO21**). In response, the Fed, CFPB, and SEC defended existing interagency collaboration and pledged to further it without committing to any specifics. The FDIC demurred, stating that it had no statutory authority over products and services; the OCC says that FSOC affords ample interagency coordination.

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.

- **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.

- **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.

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