# FedFin Daily Briefing

**Tuesday, July 25, 2023**

## Key Democrat Takes On Fed Rate Hikes

Ahead of today's FOMC meeting, Joint Economic Committee Chair Heinrich (D-NV) yesterday sent a letter to Fed Chair Powell cautioning against additional policy tightening. Joining other progressive Democrats in their attack on rate hikes, Sen. Heinrich states that higher rates adversely affect affordable housing, noting also problems for consumer confidence and working families. He also reiterates ongoing challenges and recession risk. No response deadline is given, but it is clear Mr. Powell will face tough questioning when he appears before JEC in the fall.

## Second HFSC Markup Targets Stablecoins, Regulatory Restrictions, ESG

Thursday's HFSC has now added another day to its mark-up calendar this week, moving the stablecoin and ESG bills to Thursday doubtless in order to avoid an endurance contest before the August recess and still meet Chairman McHenry's (R-NC) commitments. As of this writing, work continues on the stablecoin bill to find a compromise with Democrats on the still-thorny preemption issue. The committee will also take up controversial measures, including a package of bills restricting US regulatory authority. These include H.R. 4823 (Flood R-NE), to require the Fed to notify HFSC and Senate Banking prior to implementing FSOC recommendations or Presidential executive orders – a move designed to limit FRB action on issues such as climate risk and crypto restrictions. In addition, the panel will consider H.R. 4649 (Loudermilk R-GA) imposing additional requirements when the banking agencies implement policies originating from international NGOs and H.R. 4601 (Barr R-KY) to mandate disclosures for banking-agency interactions with the international NGOs. Lastly, H.R. 4630 (Ogles (R-TN)) continues the committee's efforts to remove the position of Fed Vice Chair of Supervision. The ESG bills would, among many other things, require large asset managers to provide economic analyses related to shareholder proposals, authorize the exclusion of ESG-related shareholder proposals, and require the SEC to report on non-material disclosure requirements.

## Senate GOP Tries to Block Capital Rewrite

Just days before the banking agencies take up new capital rules, Senate Banking Ranking Member Scott (R-SC) and ten other committee Republicans sent a letter to Chairman Powell demanding greater transparency and prior consultation. The letter follows a similar one from HFSC Republicans, going farther by essentially warning Mr. Powell that the Fed's independent authority over financial regulation is at risk. The Senators also state that Mr. Barr's conclusions (see *Client Report* **CAPITAL228**) seem to represent foregone conclusions in areas of considerable dispute, undermining the entire point of FRB consultation and consent to major proposals even if these are being brought to public vote. The letter demands the release of the Board's proposal ahead of any vote approving public comment in order to validate its assumptions, demanding this be done by August 4.

## Waters Presses FHFA for FHLB Reform

Following FHFA listening sessions and in anticipation of a final report this September on the FHLB system, HFSC Ranking Member Waters (D-CA) late yesterday sent a letter to FHFA Director Thompson laying out a series of recommendations to significantly reform the system. These go beyond stronger affordable-housing and board-diversity objectives, addressing matters such as system membership on grounds that member activities should directly align with the system's housing finance mission. Here, she takes serious issue with FHLB lending to firms with significant crypto market exposure, urging FHFA to monitor advances and require the Banks notify FHFA when their members shift from housing to cryptocurrency business models. She also asks that FHFA take a more proactive role monitoring FHLB advances, improve coordination with the Fed in emergency situations, and consider the assets of potential new members as well as assets and activities of existing members when determining eligibility. She also counters FHLB arguments that the System should be a source of emergency liquidity, noting large advances to failed banks and arguing that FHLBs are not "personal banks of second-to-last-resort." No response is requested.

## Ag Committees Slam SEC Custody Proposal

In a letter to SEC Chairman Gensler released today, Senate Agriculture Committee Ranking Member Boozman (R-AR) and Chairwoman Stabenow (D-MI) along with House Ag. Committee Chairman Thompson (R-PA) and Ranking Member Scott (D-GA) raised strong objections to what they called serious flaws in the SEC's proposed custody rule (see FSM Report **CUSTODY5**). In addition to their concerns that the Commission failed the collaborate with the CFTC, the members argue that the proposal would cause derivatives and commodities markets disruptions, impede FCM risk management, and interfere with advisory clients' ability to enter into swaps contracts. They also raise serious concerns over new requirements that a "qualified custodian" maintain possession and control of all client assets. Absent withdrawing the proposal altogether, the members urge the Commission to refrain from applying it to CFTC-registered entities, CFTC regulated markets, and cash commodity markets.

## Warren, Scott Renew Fed-Ethics Campaign

Continuing their bipartisan campaign against the Fed, Sens. Warren (D-MA) and Scott (R-FL) yesterday sent a letter to Fed IG Bialek highlighting potential conflicts of interest possible due his salary, which he said earlier this year is derived from the average divisional director yearly pay plus their bonus. The Senators claim that he thus has a financial incentive to overlook wrongdoing by these same Fed officials, pressing their bill to make the IG Senate-confirmed. They also demand that Mr. Bialek provide information on his salary and any audits or evaluations he has conducted relating to cited Fed officials. No deadline for a response is given.

## FSB Maintains NBFI Focus

The FSB's Secretary General, John Schindler, today outlined the global regulator's NBFI action plan. It will address what he calls the sector's lack of transparency as well as what he and the FSB have described as the key NBFI vulnerabilities of liquidity mismatches and leverage. Forthcoming FSB work on these issues includes a progress report on the FSB's main NBFI findings and policy proposals as well as a report on NBFI leverage trends with a specific focus on hedge funds, both set for G20 delivery in September. The FSB will also work toward policy recommendations to mitigate NBFI financial stability risk due to leverage.

## Key Treasury Aid Presses Tough Regional-Bank Regs

Although Treasury has no direct role in bank regulation, remarks today from Assistant Secretary Graham Steele make clear how closely aligned the department is with Fed thinking. Indeed, Mr. Steele goes beyond Vice Chair Barr's recent remarks (see *Client Report* **CAPITAL228**) in several key respects. For example, he says that regional banks pose "under-appreciated" systemic risk, rebutting suggestions that low GSIB scores suggest a lack of systemic risk by pointing to the regional, FDIC, and depositor impact of recent bank failures. He calls not only for tougher capital rules, but also more stringent liquidity standards, noting for example that SVB might well have had sufficient liquidity to withstand runs had it been under the full LCR. He also argues that regional banks should come under the SCB and that banks that grow into larger regulatory

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categories should be forced to comply far more quickly with tougher standards. He also states that banks such as Signature and First Republic that operate without holding companies should be held by their primary regulators to tougher standards to reflect the absence of FRB stress tests and other safeguards, with this a requirement we expect the OCC and FDIC to impose on a case-by-case basis rather than following a formal rulemaking.

## 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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