FedFin Daily Briefing

Tuesday, August 29, 2023

Agencies Advance Controversial Long-Term Debt, Resolution Proposals

The FDIC, OCC, and FRB today tackled several critical resolution issues in the wake of recent bank failures, proposals that raise strong objections from regional banks despite FDIC and FRB unanimity today on at least one of them. As anticipated, the FDIC and FRB approved an NPR that would impose minimum long-term debt requirements for banks and BHCs with assets over $100 billion, with the FDIC and Fed boards voting unanimously in favor even as FRB Gov. Bowman strongly dissented despite a three-year transition period. Similar to the ANPR floating this rule (see FSM Report **RESOLVE48**), the proposal would require large banks to hold a minimum amount of eligible long-term debt equal to the greater of six percent of risk weighted assets, 3.5% of average total consolidated assets, or 2.5% of total leverage exposure for banks subject to the SLR. All directors emphasized that TLAC for regional banks would reduce contagion risk, lower resolution costs, and provide additional resolution options. Conversely, Gov. Bowman detailed strong objections based on the proposal's likely cost, unintended consequences, and perverse interactions with the pending capital rewrite. We will shortly provide clients with an in-depth analysis; comments are due November 30.

The FRB and FDIC boards today also voted 5-1 and 4-1 to approve guidance to enhance Title I resolution plans for categories II and III banks. Mr. Hill cast the sole dissenting FDIC vote and Gov. Bowman did the same at the Fed. Mr. Hill is concerned that the FDIC is expressing a preference for SPOE over MPOE resolutions. Gov Bowman's prime worry is that banks would have insufficient information with which to evaluate whether their proposed resolution plans satisfy the least cost test.

The FDIC directors also disagreed on the proposal to revise resolution plan regulations for IDIs with assets over $100 billion, voting 3-2 to revise current FDIC standards (see FSM Report **LIVINGWILL8**). Chairman Gruenberg stated that the proposal would enhance bridge-bank and separability planning and set clear credibility standards, with Acting Comptroller Hsu defending the proposal along lines in an op-ed earlier in the day. Republicans dissented on grounds that credibility determinations would be too subjective and that the FDIC lacks statutory authority to enforce all of the proposal's requirements. Vice Chairman Hill also strongly objected to shortening the plan submission cycle from three to two years and called the proposal's information filings for banks between $50 billion and $100 billion in assets "disingenuous." Comments on this proposal are also due November 30.

Finally, Director McKernan proposed an alternative to staff's recommended guidance for Board approval of large bank sales, sharply criticizing the Board's delegation of authority in the FRC bidding process. The proposal failed along party lines, with Director McKernan then casting the only dissenting vote against staff's recommended guidance on receivership authority delegations, which passed 4-1.

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.

- **GSIB22:** As anticipated in the wake of recent bank failures, the FRB has proposed a significant revision to the current rules calculating systemic-risk scores that lead to GSIB designation.

- **CAPITAL234:** With this report, we conclude our assessment of the regulatory-capital proposal with analysis of what the sum total of the credit (see FSM Report **CAPITAL231**), operational (see FSM Report **OPSRISK22**), and market (see FSM Report **CAPITAL233**) rules could do in the real world of banks, nonbanks, foreign banks, and complex market interconnections.

- **CAPITAL233:** In this analysis, we turn to one of the costliest aspects of the proposed rewrite of U.S. regulatory-capital standards: the market-risk framework.

- **GSE-081423:** As Karen Petrou's memo today suggests, there are many reasons the new operational-risk framework proposed in the capital rewrite will not only be costly for covered banks, but also counterproductive for financial resilience.

- **CRYPTO45:** In conjunction with issuing a new supervisory policy for "novel" activities, the FRB has instituted a new process requiring non-objection letters before state member banks proceed with stablecoin or dollar-tokenization activities.

- **GSE-081023:** FHFA today released the results of the ninth stress test it's run on Fannie and Freddie since Dodd-Frank demanded this in 2010.

- **OPSRISK22:** Noting that operational risk is present at all banks due to most activities, the U.S. regulatory-capital rewrite would end the current approach to operational risk-based capital (ORBC).

- **FINTECH32:** FRB Vice Chairman Barr's assessment of SVB's failure included a commitment to pay additional supervisory attention to "novel" activities.

- **GSE-080823:** Our most recent analysis of the inter-agency capital proposal focuses on significant changes to the rules for securitization and credit-risk transfer positions.

- **CAPITAL232:** Based on our analysis of the inter-agency capital proposal's framework and its credit-risk provisions, FedFin turns now to the proposed approach to equities as well as to that for securitization exposures (i.e., those that are tranched rather than simple secondary-market issuances of packages of loans or other assets backed as needed by a single credit enhancement).

- **CAPITAL231:** In this report, we proceed from our assessment of the proposed regulatory capital framework to an analysis of the rules governing credit risk.

- **GSE-080323:** As we plow on with our in-depth analysis of the new capital proposal, we will continue to advise of key provisions in the massive rewrite with important implications for residential-mortgage finance.

- **CAPITAL230:** In this in-depth report, we begin our analysis of the 1089-page capital proposal released by the U.S. banking agencies not only to make U.S. standards more consistent with Basel's 2017 "end-game" rules, but also to correct failings in the current capital framework the agencies believed were laid bare by recent bank failures.

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