FedFin Daily Briefing

Thursday, September 7, 2023

FSB-IMF Report Lays Out Crypto-Policy Roadmap

The FSB and IMF today published a joint report synthesizing their policy and regulatory recommendations for cryptoassets, laying out a policy roadmap that breaks no new ground. As previously noted, the FSB here reiterates that it will review the implementation status of its high-level recommendations by year-end 2025 (see FSM Report **CRYPTO34**), along the way considering whether additional recommendations are necessary. The IMF expects to collect more granular crypto-payments data by that time. In addition to emphasizing the FSB's "same-activity, same risk, same regulation" construct, the paper also reiterates prior IMF recommendations that cryptocurrencies receive unambiguous tax treatment, that crypto capital flows be integrated in existing capital-flow regimes, and that jurisdictions avoid giving cryptocurrencies any form of legal-tender status.

Senate Dems Try Again to End State Usury Ceilings

Senate Majority Whip Durbin (D-IL) yesterday introduced another effort (S. 2730) to impose a federal usury ceiling. Although joined by Sens. Whitehouse (D-RI), Blumenthal (D-CT), and Merkley (D-OR) and long supported by Banking Chairman Brown (D-OH), the bill stands slim odds of Senate passage and none in the House. As a result, the extent to which bank "partnerships" with nonbanks and fintechs may circumvent state usury ceilings remains the province of the banking agencies, OCC and, more recently, the courts. Current regulatory policy is generally not to allow national banks to serve as conduits for third-party lending at rates above applicable limits.

NGFS Warns Ecological Risk Could Be Systemic

The Network for Greening the Financial System (NGFS) today released a report on nature-related financial risk concluding that ecological risk transmission could cause contagion leading to systemic risk. The report highlights risks arising from compounding and cascading effects due to ecosystem degradation, warning that physical and transition risks for individual financial institutions could amplify shocks and result in feedback loops spreading to the broader financial system. The report also outlines a new central-bank and supervisory beta framework, recommending that authorities first identify material nature-related physical and transition risks and then assess their potential macroeconomic and financial stability effects, with central banks urged to supplement this with scenario analysis. The report also calls for feedback by mid-2024 to identify relevant data, metrics, and tools as well as ecosystems likely to be most macro-financially critical.

CFPB Soon to Advance Its Open-Banking Construct

CFPB Director Chopra today announced that the CFPB will be issuing proposed rules next month to reactivate its DFA consumer data rights powers (see FSM Report **DATA3**). In conjunction with a report released today investigating the role of bigtech in digital payments, Mr. Chopra also argued that bigtech firms and specifically Google and Apple exercise undue power over payments by restricting which apps can use their phones' native tap-to-pay feature and which apps are available to download on their app stores. He thus stresses the importance of keeping payments infrastructure open and accessible to innovators against incumbent dominance, with the CFPB expanding its technological competence in part because the Fed is unprepared for the rate of payment-system technological change. The report does not offer policy solutions to the barriers Mr. Chopra described, only stating that the CFPB will work with bigtech firms to ensure that they do not impede the development of an open digital payments system.

Global Securities Regulators Craft DeFi Standards

IOSCO today released a DeFi consultation report proposing nine policy recommendations intended to support heightened regulatory consistency and oversight. Recommendations include analysis of DeFi products and services to determine those subject to DeFi regulatory frameworks. Global securities regulators also propose ways to protect investors and market integrity, mitigate conflicts of interest, require DeFi service providers to address operational risks, and require clear and accurate disclosures. The report also emphasizes enforcement, cross-border cooperation, and assessment of DeFi inter-connectivity. IOSCO calls for feedback by October 19; it will finalize the recommendations by the end of the year.

Waters Presses Agencies to Change SSN Collection Requirements

HFSC Ranking Member Waters (D-CA) today wrote to the leadership of the banking agencies, Treasury, and FinCEN asking them to consider allowing financial institutions only to collect a SSN's last four digits to minimize cybersecurity risks. This is now plausible because multifactor authentication and third-party tools are able to cross-reference the last four digits with other personal information and sufficiently confirm identity. She asks the agencies to consider new FAQs in the Bank Secrecy Act/Anti-Money Laundering Manual to reflect the use of these tool in lieu of the full SSN. No deadline is given for a response.

Fed Staff Suggest Solution to CBDC Privacy Problem

Addressing one of the biggest CBDC challenges in the U.S., Fed staff today published a report arguing that the use of privacy-enhancing technologies preserves digital asset user confidentiality while maintaining enough visibility for official audits in order to prevent illicit finance. Claiming that truly anonymous "cash-like" cryptoassets are likely unattainable, the paper instead pushes for a hybrid approach that combines the use of privacy tools by both digital asset designers and organizations that hold, process, or transmit user data. These technologies include encryption, zero-knowledge-proofs, multi-party computation, and digital signatures.

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.

- **LIVINGWILL22:** In conjunction with proposing a new long-term debt (LTD) requirement for categories II, III, and IV banks, the Fed and FDIC are pursuing other ways to enhance resolvability.
- **TLAC9:** Building on an advance notice of proposed rulemaking, the banking agencies have issued several proposals to enhance the resolvability of large banking organizations not covered by stringent GSIB standards.
- **GSE-083123:** As we noted yesterday, the global banking, securities, and insurance regulators who comprise the Financial Stability Board (FSB) are heading back to look again at securitization to see if the post-08 framework it crafted still works.
- **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).

Federal Financial Analytics, Inc.
2101 LStreet, N.W. – Suite 300, Washington, D.C. 20037
Phone (202) 589-0880
E-mail: info@fedfin.com www.fedfin.com