FedFin Daily Briefing

Thursday, September 14, 2023

IOSCO Proposes Leveraged Loan, CLO Best Practices

IOSCO today released a consultation report proposing best practices for leveraged loans and CLOs that address origination and refinancing, EBITDA and documentation transparency, aligning interests from loan origination to end investors, managing conflicts of interest throughout the intermediation chain, and disclosures. The report states that vulnerabilities in this market could negatively impact investor protection, market fairness, and systemic risk. Thus, IOSCO seeks comment on whether its best practices accurately reflect key issues in the leveraged loan and CLO market and what measures are currently being used to address market vulnerabilities that the proposal does not address. Comments are due by December 15.

Durbin, Marshall Press Credit-Card Interchange Bill

Reiterating concerns expressed last month and comments yesterday on the Senate floor, Senate Whip and Judiciary Chairman Durbin (D-IL) and Sen. Marshall (R-KS) were joined this time by Sen. Welch (D-VT) and four House Members calling on Visa and Mastercard to reverse planned fee hikes. The letter claims that the companies "duopolistic control" of the market allows their fee increases to remain unchecked by normal market restraints and disproportionately hurt families and small businesses. Should Visa and Mastercard proceed, then there will be additional evidence of the need for legislative intervention (see FSM Report **INTERCHANGE10**). Responses are requested by September 29.

GAO Presses for FSOC Power to Regulate, Not Just Designate

The GAO today issued a report recommending that Congress consider legislation allowing FSOC to compel regulatory action, arguing that this would better accomplish the Council's mission because FSOC currently has limited power to respond to systemic risk. GAO also recommends that FSOC develop improved internal review processes, noting these are now infrequent and incomplete. GAO also highlights FSOC's proposed nonbank designation guidance (see FSM Report **SIFI35**), arguing that it will facilitate the Council's ability to exercise its authority and respond to risks. The report notes that Treasury agreed with GAO's recommendations for improved internal review but did not discuss implementation.

HFSC GOP Highlight CBDC Privacy Concerns

As anticipated, HFSC Digital Assets GOP Members continued their staunch opposition to a U.S. CBDC, with Subcommittee Chairman Hill (R-AR) and Majority Whip Emmer (R-MN) asserting that private innovation can modernize payments without the risk of government surveillance. Citing Vice Chair Barr's statement that the Fed would not proceed with a CBDC without authorizing legislation, Chairman Hill stated that there is little CBDC support in Congress and attacked the Fed for failing to expand the days and hours of the Fed's wholesale payment services such as FedWire or the National Settlement Service. Rep. Emmer emphasized the need for a digital cash equivalent that is private, permissionless, and open to all and argued that CBDC's potential for government surveillance makes it an unacceptable form of digital currency. Subcommittee Ranking Member Lynch (D-MA) noted that, while he shares many of the GOP's privacy concerns, a CBDC could be designed to protect data privacy. He thus invited his GOP colleagues to the Congressional Digital Dollar Caucus, where he plans to invite experts to inform members on CBDC design. He also announced that he will be reintroducing a bill to require the Treasury to issue a digital cash equivalent known as e-cash (see FSM Report **CBDC11**), which would allow instant peer to peer payments without need for a bank account and would complement a Fed-issued CBDC.

During questioning, Chairman Hill asked if payment stablecoins obviate the need for a CBDC; the witness representing the Cato Institute stated that they would. Rep. Hill also highlighted the concerns of the witness representing the University of Pennsylvania that a CBDC that is a liability of the central bank may cause a flight to safety during times of stress and harm lending. Committee Ranking Member Waters (D-CA) stressed the importance of U.S. global financial leadership and the cost of falling behind in payments innovation.

Brown Doubles Down on Opposition to House Crypto Bill

Making it still more clear that he is not supportive of pending House cryptoasset legislation, Senate Banking Chairman Brown (D-OH) today sent a letter to Treasury Secretary Yellen, SEC Chairman Gensler, and CFTC Chairman Benham asking for views on where new authority may be needed. Highlighting recent crypto market turmoil and investor losses, the Chairman calls for data comparability as well as disclosure standards comparable to those for traditional markets, arguing that these would limit fraud, scams, and conflicts of interest. He also states that it would be a "profound mistake" to advance legislative proposals with weak disclosure requirements. No response is requested.

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.

- **CAPITAL235:** With HFSC Chairman McHenry (R-NC) leading the way, GOP Members of the panel's Financial Institutions Subcommittee today blasted the banking agencies' end-game proposal (see *Client Report* **CAPITAL234**).
- **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.

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