FedFin Daily Briefing

Wednesday, September 27, 2023

FinCEN Bows to BOI Pressure

Responding to bipartisan concerns, FinCEN today issued an NPR to extend the beneficial ownership information (BOI) report filing deadline from thirty to ninety days for companies created or registered in 2024. The proposal would not alter other controversial aspects of the rulemaking, preserving the one-year timeline for reporting companies registered before 2024 to file their initial BOI reports. Entities created or registered on or after January 1, 2025 would also have to file in thirty days. FinCEN here reasons that reporting companies should be familiar with BOI reporting requirements by January 2025. Comments are requested by October 30.

Chopra Considering Refi, Point Rules

The CFPB today released its annual report on residential mortgage lending, finding that mortgage applications, originations, and affordability declined significantly in 2022 while costs, loan denials, HELOC originations, and the percentage of cash-out refinances all increased. Further, Black and Hispanic borrowers were denied loans at higher rates, received smaller loans, were charged higher interest rates, and paid more in upfront fees than white and Asian borrowers, although some of these disparities shrank or even disappeared for FHA loans. Loan denial rates rose from 8.3 percent to 9.1 percent, with the Bureau noting that more denials were due to insufficient income than in any year since data collection began in 2018. In response, Director Chopra announced that the Bureau will explore ways to "simplify" the refinancing process and ensure that borrowers understand their options for tapping home equity as well as purchasing discount points. He also reiterated that the Bureau plans to revise mortgage servicing standards.

HFSC GOP Presses Gensler on Banking-Reg Cumulative Impact

During Chairman Gensler's as-always contentious HFSC hearing today, Rep. Barr (R-KY) asked if the SEC is in consultation with the Federal Reserve regarding the combined CRE effects of recent SEC proposals and the Basel III endgame standards (see *Client Report* **CAPITAL234**). Mr. Gensler stated that the SEC has regular communication with the Fed on several issues, but deferred Basel discussion to the Board. Without directly referring to GSE credit-risk transfers or the capital proposal, Rep. Luetkemeyer (R-MO) argued that reinsurance lowers costs and spread risk in mortgage securitization, asking if the Chairman supports it; Mr. Gensler noncommittally replied that reinsurance is an important part of the marketplace. Rep. Lucas (R-OK) claimed that the SEC's custody proposal (see FSM Report **CUSTODY5**) indirectly gives the SEC authority over CFTC-regulated entities, asking the Chairman if the Commissions have consulted each other; Mr. Gensler stated they had and finalization satisfying the CFTC is underway. Throughout the hearing, committee Republicans continued to attack the SEC as hostile to crypto and fossil fuel companies, with Mr. Gensler maintaining that the crypto industry is largely noncompliant with existing securities laws and that the SEC is not a climate regulator. Committee Republicans also targeted the predictive data analytics proposal, with Rep. Lucas arguing that its burden could prevent smaller firms from employing innovative technology and Rep. Wagner (R-MO) claiming that its higher standard of conflict neutralization effectively rewrites reg BI. Reps. Steven Lynch (D-MA), Richie Torres (D-NY), and others continued also to take issue with SEC crypto policy.

Following a letter sent this morning slamming the SEC for its failure to analyze the cumulative impact of its rulemakings, Chairman McHenry (R-NC) threatened to subpoena Chairman Gensler if he continues to not comply with the Committee's document requests. Ranking Member Waters (D-CA) and committee Democrats attacked their Republican colleagues over the impending government shutdown, noting that it would hamstring the SEC's ability to protect investors, a point the Chairman echoed. Chairman Gensler's testimony described the agency's activities, detailing proposals finalized, pending, and widely anticipated without providing any new insights into likely action.

Carstens Says Law Must Catch Up To CBDC

BIS General Manager Agustín Carstens today emphatically called for rapid development of clear CBDC legal frameworks based on defined rights and obligations for privacy, AML compliance, and user choice. Nearly eighty percent of central banks are not now clearly authorized to issue CBDC even though Mr. Carsten emphasizes that it is a core central bank responsibility to define money. The more what is used for money resides outside the central bank, the greater an array of risks Mr. Carsten argued must be quickly allayed by one or another form of CBDC. This need not be retail-facing; the system the Fed increasingly seems to favor would be a wholesale CBDC based in part on tokenized deposit products which firmly entrench banks in the consumer-facing role they now enjoy with regard to central-bank money. Still, while accepting the value of certain CBDC limits, Mr. Carsten continues to espouse the "unified ledger" construct that would put central banks and CBDC as key instrumentalities not only across banking, but also most other forms of payment, settlement, and clearing. With republicans at present strongly opposed to any form of retail CBDC and perhaps most others, a unified ledger would be a highly-problematic undertaking in the U.S. even if the Fed came to favor it.

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.

- **GSE-092523:** In her Congressional testimony last week, FedFin managing partner Karen Petrou focused on the unintended consequences wrought by new banking proposal based on their cumulative impact.
- **GSE-092023:** Or maybe it is, but not everyone has heard.
- **LIVINGWILL23:** Although a pending FDIC/FRB proposal imposes a raft of new requirements for resolution plans from IDIs with over $100 billion in assets, the FDIC has also issued a freestanding proposal doing the same, also setting information-filing standards for IDIs below $100 billion but above $50 billion.
- **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

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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.

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