



Thursday, October 12, 2023

FSB Calls for More Private Climate Disclosures

Expressing considerable satisfaction with climate-risk disclosure progress, the FSB today released a [report](#) finding that all member jurisdictions either have or plan climate disclosure regimes, but there still needs to be greater private-sector self-reporting. Less than five percent of companies disclose all eleven FSB-recommended climate disclosures, with resilience to climate-related scenarios the least-reported metric. The largest barrier to asset-management disclosures is insufficient information from investee companies. The FSB pledges further work on ensuring the interoperability of disclosure standards, developing physical risk assessment and scope 3 measurement guidance, and exploring disclosures on other sustainability topics.

Pressure Builds for Heightened Iran, China Sanctions

Ahead of the hearing we anticipated earlier this [week](#), HFSC Republicans have introduced several bills designed to increase financial pressures on Iran to punish it for the Hamas attack. The most significant of these is H. R. 5921 from Rep. Huizenga (R-MI) and eighteen senior GOP Members to prevent Treasury from authorizing financial institution transactions with Iran, prohibit the IMF from providing financial assistance to Iran, and codify prohibitions on Export-Import Bank financing for Iran. In addition, H.R. 5923 from Rep. Lawler (R-NY) and three other HFSC Republicans would restrict U.S. correspondent and payable-through accounts with respect to Chinese financial institutions involved in Iranian petroleum transactions. H.R. 5932 from Rep. Schweikert (R-AZ) and eleven other House Republicans is aimed at deploying confiscated Iranian assets to assist Israel. This bill is unlikely to pass given broad concerns about taking frozen assets, but the others have a good chance in concert with what may be almost-unanimous bipartisan action to retrieve \$6 billion in previously-frozen Iranian assets released in the process of an earlier prisoner exchange.

EU Regulators Add ESG Considerations to Regulatory, Supervisory Standards

In a bit of gold plating for what it believes to be the public good, the European Banking Authority today [issued](#) a report pressing for Pillar 1 capital charges for activities posing ESG risks with particular attention to climate. Notably, the EBA is not now adopting the “brown-penalty” charge adopted in 2020 by the BIS ([see Client Report GREEN](#)). Instead, it will incorporate environmental risks factored into stress testing for market-risk capital charges, require that ESG factors are considered in due diligence and asset valuations, mandate identification of ESG factors that trigger operational risk, and pursue longer-term development of environmental-risk concentration analytics for bank supervision. Looking ahead, the EBA is also considering express ESG scenario analyses for macroprudential purposes, a revised approach to credit-risk weightings, and express environmental-risk concentration risk limits. These standards follow a 2022 consultation eliciting strong industry opposition to much of what the EBA has now decided to do to the extent possible under current law in a phased-in approach. We do not think U.S. banking agencies – already more than busy and facing GOP attack for capital proposals – will take up ESG or environmental refinements in the near or medium term. However, supervisory standards in areas such as addressing environmental risk when insurance now is scarce may well be near-term considerations.

OMB Redesigns Federal Rulemaking to Consider, Increase Competition

Acting under the President's competition executive order ([see Client Report MERGER6](#)), OMB's Office of Information and Regulatory Affairs yesterday [issued](#) new guidance governing federal rulemaking stipulating express assessment of the impact of new or prospective rules to enhance market competition. While OMB guidance of this sort does not expressly cover independent agencies such as the bank regulators, it in practice guides their thinking as well as strengthening the CFPB's hand using all the tools at Director Chopra's disposal to achieve his fair-market objectives in pending payment-system [actions](#) and many other arenas. We expect OMB's new guidelines to be particularly influential in the bank-merger guidelines long anticipated from the FRB and in FDIC bank-resolution policy. However, many of the questions agencies are not told to consider also raise significant potential challenges to pending prudential and resolution standards. The guidance includes broad principles and analytical tools for incorporating quantitative and qualitative competitiveness into any form of rulemaking along with a supplement guiding analysts at each agency through the steps necessary to complete the requisite competition review. Federal agencies are also encouraged to consult with the Department of Justice and FTC to hone their analytics, enhance enforcement, and where necessary also make referrals.

CFPB, DoJ Issue Immigration Discrimination Warning

Taking action that may in some cases put lenders in conflict with state law, the CFPB and DoJ [stated](#) today that "unnecessary or overbroad reliance" on immigration status in a credit decision may violate the ECOA. While ECOA does not expressly forbid considering immigration status, it does bar using it to discriminate based on national origin or race. The agencies thus press creditors to ensure that their immigration-status review serves only to determine the institution's rights or remedies for repayment. The statement also warns that proxy criteria for immigration status such as how long a borrower has had a Social Security Number also may violate the ECOA. To the extent the CFPB becomes particularly active in this area – and it might in the context of Administration objectives – lenders which fail quickly to address any needed immigration-review procedures could face costly legal and reputational risk given the Bureau's sweeping view of its UDAAP authority ([see FSM Report CONSUMER39](#)) and the ambiguous criteria by which the statement judges ECOA violations.

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](#).

- [REFORM228](#): As we [noted](#) yesterday, the Basel Committee's October meeting concluded not only with plans for new disclosure consultations, but also a [report](#) on lessons learned from the 2023 crisis.
- [GSE-100223](#): As we noted earlier today, the FRB has issued a seemingly technical [FAQ](#) liberalizing the treatment of certain credit-linked notes.
- [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

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- [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](#)).