FedFin Daily Briefing

Tuesday, October 24, 2023

McHenry, Barr Blast Basel Adherence in End-Game Regs

Although today's hearing challenging regulatory actions aligned with global regulators was postponed, HFSC Chairman McHenry (R-NC) and Financial Institutions Subcommittee Chairman Barr (R-KY) today kept up the pressure, releasing a letter to the GAO commissioning a study of the end-game rules. As before, Reps. McHenry and Barr focus on transparency, asking GAO to assess communications between the U.S. agencies and Basel. GAO is now also asked to evaluate the U.S. decision to set certain coefficients and not to propose a tailored approach to high-fee revenue banks in the operational-risk proposal (see FSM Report **OPSRISK22**), eligibility requirements for the reduced risk weight for investment-grade corporate exposures (see FSM Report **CAPITAL231**), and the calibration of the correlation factors and test thresholds for the models-based measure of market risk (see FSM Report **CAPITAL233**). No deadline is given.

New CRA Reg Sets Controversial, Complex Standards

Leading the way to certain inter-agency approval, the Federal Reserve today voted 6-1 to approve a final version of their 2022 controversial proposal (see FSM Report **CRA32**). Although Federal Reserve officials told the media that they have adjusted the proposal to ensure that banks can win outstanding ratings, the "metrics-based" approach depends on standards the agencies have yet to construct. However, Gov. Bowman noted that the rule will increase unsatisfactory ratings by at least ten times. The rule itself clocks in at 1,494 pages, with forthcoming FedFin analysis providing clients an in-depth guide to strategic implications of an approach the agencies also emphasize is tailored to impose its most stringent requirements on banks with more than $2 billion in assets. As proposed, the final rule also requires assessment of demographic factors for CRA scores and integrates fair-lending and consumer-protection compliance into its scoring system.

Gov. Bowman not only voted against the rule, but also chafed at its process. She argued that the CRA standard and tomorrow's proposed interchange-fee rewrite are not urgent and thus that votes should not have been scheduled during FOMC blackouts (i.e., when FOMC members may not make public statements). Gov. Bowman also argued that the rule's cost-benefit analysis is baseless, that many provisions are not authorized by the Act, and that the agencies' decision here to determine what to do about mobile and digital banking without clear authorization makes still less sense given their unwillingness to do so in more urgent areas such as merger policy. Gov. Waller supported the final rule as did Chair Powell even though he asked about possible unintended consequences. Gov. Cook seemed dubious about the rule's complexity and the extent to which its metrics can be implemented. She also pressed on the transition period, but was assured by staff that it now reflects bank concerns with a 24-month transition.

FDIC OIG: Supervisors Missed So Much, Acted So Slowly re SBNY

The FDIC's OIG report today on SBNY's failure follows much of the line the Fed's OIG took when it came on the material-loss review of SVB's collapse. Thus, the OIG blames SBNY's demise solely on poor management caught in circumstances it was unprepared and in many cases unwilling to control. Also as with the Fed's OIG, the FDIC's report finds significant supervisory failures to act quickly and effectively as SBNY's condition worsened. The report has six recommendations the FDIC agreed to implement by March 31. These focus only on internal supervisory process, escalation, and staffing.

House Republicans Pressure Biden on $6 Billion Iran Ransom

Although HFSC continues to cancel all its hearings as the speakership battle continues, its Oversight Subcommittee today optimistically released a memo outlining goals for Thursday's Iran-sanctions hearing. As anticipated, the session is focused on criticizing the Administration's decision to provide a $6 billion ransom. Consistent with the Oversight Subcommittee's remit, the hearing memo cites no legislation. Measures dealing with the $6 billion as well as broader Iran-finance questions were to be the topic for the postponed National Security Subcommittee hearing and will surely be brought forward when the House returns to regular order if no new crisis is upon it by that time. Preparing for this, Chairman McHenry (R-NC) along with subcommittee chairs Huizenga (R-MI) and Luetkemeyer (R-MO) sent Secretary Yellen a letter today demanding information and records on the ransom transaction, vigorously disputing the restrictions the Administration placed on fund disbursal to limit use to humanitarian purposes. A response is requested by November 1.

Treasury Presses CSPs to Negotiate With Banks

Treasury Assistant Secretary for Financial Institutions Graham Steele today highlighted Treasury's work with cloud service providers (CSPs) to improve transparency and security. Following its February report, Treasury has worked with CSPs and regulatory and private-sector stakeholders to establish a "common language" for financial institutions considering adopting the cloud to promote ease of access. Mr. Steele also discussed moving to a model that would empower financial institutions to unbundle CSP packages and thus enhance their negotiating power. Mr. Steele also addressed AI, emphasizing the Administration's ongoing privacy, data-security, and discrimination concerns. Treasury plans to prioritize AI-related policy but no further specifics were provided.

Divided FDIC Advances CRA Rewrite, Climate-Risk Principles

As anticipated, the FDIC on a 3-2 vote joined the Fed in approving a 1400+ page final CRA rule. Chair Gruenberg, Acting Comptroller Hsu, and CFPB Director Chopra strongly supported the standard on grounds that it provides clear CRA-measurement and project-eligibility standards and will hold banks to greater account. Noting that banks are not "ordinary businesses," Mr. Chopra also said the banking agencies should use the CRA standards to judge "convenience and need" in merger evaluations, urging states to issue like-kind standards for nonbanks. Vice Chairman Hill condemned the rule's complexity and length, saying it provides clarity principally on process, not outcome. Director McKernan challenged the legal basis for assessing CRA performance outside a bank's physical location, stating that the entire nation could be deemed each bank's retail-lending assessment area if judged by the final rule's standards.

The FDIC also approved by 3-2 vote a final version of the inter-agency climate-risk principles first released in 2021 by the OCC (see FSM Report **GREEN12**). These are only principles, leading Mr. Chopra to press the banking agencies to move quickly to more binding standards. The FDIC's release must reflect inter-agency agreement on these principles, but they were not considered today and are not on tomorrow's agenda nor have they been approved by notation as of this writing.

FedFin will shortly provide clients with in-depth analyses of both the CRA rule and climate-risk principles.

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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-102323:** As noted in our report earlier today, the Federal Reserve's latest financial-stability report expresses deep misgivings about complex securitizations.
- **SYSTEMIC97:** As promised, this in-depth report assesses Friday's semiannual financial-stability report from the Federal Reserve.
- **DEPOSITINSURANCE122:** Bipartisan senators have introduced legislation to provide FDIC coverage for certain noninterest-bearing transaction accounts, a move designed to prevent the stress and potential systemic risk evident when Silicon Valley and Signature Banks failed in March.
- **GSE-101723:** As we noted earlier this month, the Federal Reserve inserted a significant capital provision for credit-linked notes in an otherwise-obscure FAQ.
- **GSE-101623:** The White House today rolled out a new housing plan that smacks mightily of many old housing plans.
- **GSE-101323a:** With smaller lenders today joining MBA, NAR, and HomeBuilders' campaign to squeeze the 30-10 spread, we take a look at the odds the White House, Fed, or Treasury will do as hoped.
- **GSE-101323:** As we noted yesterday, OMB's Office of Information and Regulatory Affairs (OIRA) has pronounced a new pro-competition standard for all existing and prospective federal regulations.
- **CONSUMER52:** Using its advisory process to issue guidance that may lead to enforcement actions, the Bureau has for the first time set standards for the obligations of large banks and credit unions to respond to certain consumer inquiries.
- **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 impact.

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