



FedFin Weekly Alert

Monday, November 20, 2023

❑ THAT'S DIFFERENT

As we noted in our in-depth reports last week, Congressional hearings with top bank supervisors are always eventful, but rarely game-changers. This proved to be the case when FRB Vice Chair Barr, Acting Comptroller Hsu, and FDIC Chair Gruenberg came before Senate Banking ([see Client Report REFORM229](#)) and HFSC ([see Client Report REFORM230](#)). One surprising takeaway affects policy and the other is political, but each has the potential to change the end-game landscape as well as that of the Biden Administration's financial rulemaking for the rest of the President's term. Karen Petrou's Monday memo delves more deeply into the political, but our analytical conclusions are:

- **The End-Game is Not Close to the Goal Line:** When Karen Petrou [spoke](#) in late September, she pointed to the highly-partisan nature of the capital debate. Dogged advocacy and in-depth analyses by banking groups have since turned that around, with far more widespread discontent with the capital proposals evident at both of last week's hearings. As before, much of this centered on mortgages and, as we addressed in [detail](#) last week, much of what Democrats want done about the proposal's mortgage provisions will be done. The unanswered question is whether changes will end with the LMI communities directly at issue or if the mortgage sections will also be amended to revise the weightings more generally, mortgage-insurance recognition, and servicing. This time, though, Democrats didn't stop with mortgages, asking far more probing and troubled questions about credit availability as well as the overall construct of key sections in the proposal. Change is sure to come, with the battle now over how much and for which size banks.
- **The FDIC Dilemma:** With surely intentional timing, news broke shortly before the hearings about longstanding sexual-harassment and hostile-workplace complaints at the FDIC. As events unfolded, it became clear that Mr. Gruenberg may have accusations to address and the agency's general counsel has a troubled history in terms of workplace conduct. Republicans were quick to jump on this with plans for a formal HFSC [investigation](#) and Senate GOP [demands](#) even for Mr. Democrats are also questioning the FDIC, but Sen. Brown's (D-OH) letter on [Friday](#) indicates that the focus is increasingly on limiting damage, not forestalling inquiry. Gruenberg's resignation. In the near term, we doubt Mr. Gruenberg will go anywhere he does not choose to go, but the agency's ability to conduct business was [rattled](#) last week and remains uncertain in weeks to come. It is far too soon to say how this affects the prospects for all pending rules, but it certainly does not make enactment the way Mr. Gruenberg prefers any easier.

Headlines From the Past Week's Daily Briefings

[November 13](#)

- **Senate Banking GOP Demand End-Game Withdrawal, Holistic Review Release** - Making still clearer their line of attack at the Senate Banking Committee hearing, all GOP Members of the

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Senate Banking Committee sent Chairs Powell, Gruenberg and Acting Comptroller Hsu another [letter](#) demanding the withdrawal of the capital proposals.

- **FRB-PHL: Fintech Spots Credit Risk Better than Banks**- A new [study](#) from the Federal Reserve Bank of Philadelphia finds not only that fintech loan-risk scoring performed well during the pandemic, but also that the proprietary loan rating systems of large fintech companies better predict default likelihood in the personal loan market compared to traditional measures of credit risk
- **Barr Stands By His Proposals** - Vice chairman Barr's [testimony](#) for forthcoming hearings emphasizes that the banking system is resilient and sound, eschewing the caveats included in Friday's supervisory [report](#) about pockets of weakness.
- **Gruenberg Defends DIF Rewrites** - While echoing comments from Messrs. Barr and Hsu about the sound banking system, FDIC Chair Gruenberg's [testimony](#) pointed to what he called significant downside risk from higher rates, geopolitical tension, unrealized losses, and other factors.
- **Hsu Differentiates OCC Supervision, Defends Regs** - Acting Comptroller Hsu's [testimony](#) reiterates Mr. Barr's comment about a sound banking system, pointedly noting that all of the recent failures were state-chartered.

November 14

- **Comment Deadline Set for Debit-Card Interchange Fee Cap** - The Federal Register [included](#) the Federal Reserve's proposed sharp reduction in the cap for debit card interchange fees.
- **FSB Hones in on Insurance Company Risk, Resolvability** - At its [plenary meeting](#), the FSB reviewed its longstanding priorities in areas such as NBFIs, climate risk, and cryptoassets.

November 15

- **HFSC Advances Sanctions Bills** - HFSC [reported](#) an array of Hamas-sanctions related measures, extending its reach to Iran, China, and other nations deemed to support Hamas.
- **Basel Tackles Digital Fraud** - The Basel Committee has released a [discussion draft](#) seeking views on supervisory and financial-stability implications of digital fraud.

November 16

- **Global Supervisors Press Direct, Indirect CSP Oversight** - Global financial supervisors [highlighted](#) cloud-service provider systemic risk, pointing to an issue also of longstanding FSOC concern.
- **Barr Takes Surprising AOCI Turn** - In remarks focused on Treasury-market risk, FRB Vice Chair Barr also surprisingly [said](#) that "most banks" do not need to report unrealized securities gains and losses in capital although supervisors are stepping up surveillance in this area.
- **McHenry Escalates FDIC Revelations to Official Probe** - Following bipartisan outrage regarding the FDIC's harassment scandal at recent Senate Banking and HFSC hearings, HFSC Chairman McHenry (R-NC) [announced](#) that his Committee will investigate the FDIC as well as Chairman Gruenberg for alleged misconduct.

- **Global Regulators Set Crypto Custody Standards** - IOSCO [issued](#) final standards for cryptoassets in securities markets, codifying its prior stand that protections such as those against conflicts of interest and embedded vertical-integration risks should be managed for cryptoassets in the same manner regulators and supervisors address them in fiat-asset transactions.

November 17

- **FDIC Special Assessment to Cost Still More** - After abruptly cancelling its [open meeting](#), the FDIC released its final [special-assessment rule](#).
- **GOP Tries to Force Gruenberg Out** - Following HFSC Chairman McHenry's (R-NC) [decision](#) to begin a formal investigation of FDIC Chair Gruenberg are not only a raft of Senate Republicans putting pressure on the increasingly-beleaguered long-time FDIC official, but also top Democrats.
- **Senate Dems, HFSC Intensify FDIC Scrutiny** - Building on earlier comments, bipartisan scrutiny of the FDIC and Chairman Gruenberg grew with two new letters from Democratic and Republican leaders in both chambers of Congress.
- **Chopra Wants DIF Redesign** - Although the most contentious issue on the agenda for the cancelled FDIC meeting was the special assessment, the board was also to consider the Deposit Insurance Fund's status and progress on its designated reserve ratio (DRR).

This Week

No meetings of note.

Future Events of Note

Wednesday, December 6

Senate Banking Hearing on the Oversight of the Nation's Largest Banks. [TBD]. Witnesses: **Mr. Jamie Dimon**, Chairman and CEO of JPMorgan Chase & Co.; **Mr. Brian Thomas Moynihan**, Chairman and CEO of Bank of America; **Ms. Jane Fraser**, CEO of Citigroup; **David Solomon**, Chairman and CEO of Goldman Sachs; **Robin Vince**, President and CEO of Bank of New York Mellon; **James P. Gorman**, Chairman and CEO of Morgan Stanley; **Ronald P. O'Hanley**, Chairman and Chief Executive Officer, State Street; and **Mr. Charles W. Scharf**, CEO and President of Wells Fargo & Company.

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-111623**: As our reports on the [Senate](#) and [House](#) hearings with bank regulators made clear, [our prediction](#) that the agencies would compromise on mortgage risk-based capital

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requirements will prove itself in the final standards.

- **[PAYMENT27](#)**: Building on its director's longstanding focus on fintech and tech-platform companies, the CFPB has proposed to extend its supervisory reach to nonbank providers of general-use digital payments services.
- **[REFORM230](#)**: Following the Senate's Banking hearing, HFSC's session with top bank regulators again highlighted growing bipartisan consternation over the unintended consequences of the agencies' capital proposal.
- **[REFORM229](#)**: Today's Senate Banking hearing with top bank regulators showcased broad bipartisan concern over the interagency capital proposal ([see FSM Report CAPITAL230](#)).
- **[SYSTEMIC98](#)**: Rejecting the Trump Administration's hands-off approach to designating systemically-important nonbank financial institutions or activities and practices, the Biden Administration's FSOC has finalized its bifurcated proposals to designate systemic entities and another laying out an analytical approach to identifying systemic risk that would then guide firm and activity designation as well as Council staff coordination with primary federal regulators.
- **[GSE-110823](#)**: Although FHFA calls its [FHLB report](#) a centenary event ahead of the System's 2032 birthday, the agency clearly plans structural substantive reform well before that milestone.
- **[CLIMATE17](#)**: The banking agencies have joined together to issue inter-agency climate-risk guidance based on proposed standards from the FDIC, OCC and FRB.
- **[INTERCHANGE12](#)**: As suggested when the Fed last year finalized controversial new debit-card routing requirements, the central bank is now proposing a sharp reduction in the cap mandated on debit-card interchange fees under the Dodd-Frank Act's Durbin Amendment for debit-card issuers with over \$10 billion in assets.
- **[AI3](#)**: In this report, we assess the detailed [executive order](#) (EO) issued late Monday afternoon after days of private showings of selected versions.
- **[DATA4](#)**: Following a request for information that was a de facto advance notice of proposed rulemaking, the CFPB has now proposed a preliminary, but binding framework for consumer data rights covering consumer "transaction" accounts offered by banks, credit unions, and – a departure from the initial outline – nonbanks/fintechs.
- **[GSE-102323](#)**: As noted in our report [earlier](#), 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.