



Tuesday, November 7, 2023

## Treasury Advances Financial-Inclusion Agenda

In conjunction with its [read-out](#) of yesterday's meeting of its most recent financial-inclusion discussion group, Treasury announced that it will shortly release a request for information about how best to accomplish the national financial-inclusion strategy demanded in the Department's FY23 appropriations. Treasury efforts to date have aligned the financial-inclusion strategy with broader Administration racial-equity efforts, but we expect the RFI to seek input also on the role of CDFIs and MDIs, additional consumer-protection, innovative banking accounts such as the BankOn product, and CRA. No timing for the RFI is provided; no binding or perhaps even meaningful conclusions are likely from an effort sure to be overtaken by the 2024 election.

## HFSC GOP Challenges Motives, Process of Basel, NGFS Standard-Setting

[As anticipated](#), today's Financial Institutions Subcommittee hearing on global banking accords was acrimonious, with Republicans strongly attacking what they characterized as Democratic agency head's participation in a range of global banking accords as well as the Network for Greening the Financial System. The NGFS was taken to particular task, with Republicans suggesting that U.S. participation in the organization not only unduly advances Biden Administration objectives and executive orders, but also promotes an organization that receives funding from outside advocacy groups. U.S. regulators were also criticized for taking compensation for working with global groups such as the Basel Committee. Despite the harsh and partisan tenor of these remarks, it does not appear that any legislation addressing U.S. participation will advance, with Chairman Barr (R-KY) reiterating his [recent demand](#) with Chairman McHenry (R-NC) for a GAO study of the relationship between Basel standards and the U.S. end-game rules. Led by Ranking Member Waters (D-CA), Democrats avoided usual bipartisan doubts about global groups and instead stoutly defended the banking agencies on grounds that participation in global organization is warranted because finance is global. Much of the hearing was also taken up with the pending capital rules, with both sides of the aisle generally repeating concerns expressed in mid-September when the panel considered pending [rules](#). However, Reps. Casten (D-IL) and Velázquez (D-NY) now joined Republicans in worrying about the capital rule's adverse impact on small-business lending.

## CFPB Proposes to Extend its Supervisory Reach to Tech-Payment Providers

The CFPB today [proposed](#) a sweeping rule bringing tech-platform or fintech companies offering general-use digital-payment services under bank-like consumer-protection standards via more direct CFPB supervision. The standards cover larger firms handling at least five million transactions a year, firms likely to refute the Bureau's assertions about its statutory authority to expand its supervisory powers to these firms to bolster enforcement authority under certain consumer-protection and privacy standards. The Bureau reasons that tech-based payment services create significant conflicts of interest due to the commercial interests of many of these firms and do not carefully comply with electronic-payment and privacy rules. Our in-depth analysis will assess the extent to which the Bureau's supervisory plans actually impose the like-kind regulatory framework it says will result, but it is clear that finalizing this approach would subject nonbank payment-service firms and activities to considerably more legal and reputational risk that could spark

internal-procedure revisions even in the absence of express CFPB authority to mandate it. Comments are due by January 8.

## Bowman Stands by Basel

Perhaps due to today's HFSC hearing on global accords, FRB Gov. Bowman [today](#) went beyond her ongoing critiques of pending [rules](#) to defend participation in the Basel Committee and other forums. Echoing comments today from Democrats, Ms. Bowman stated that these global bodies promote competitive equity and cross-border financial stability. She also noted that the U.S. end-game proposals depart in numerous ways from Basel's framework; although Ms. Bowman opposes higher calibrations and other U.S. departures, her emphasis on these differences is clearly intended to counter GOP suggestions that the U.S. unduly adhered to global edicts.

Gov. Bowman also reiterated her criticism of the CRA final [rule](#), expanding it now to echo others questioning the legal validity of provisions expanding CRA assessment areas beyond those linked to physical facilities. Gov. Bowman also reiterated her concerns about the pending debit-card interchange fee reductions ([see FSM Report INTERCHANGE12](#)), worrying that lower fees will reduce LMI-consumer banking services (Karen Petrou's [memo](#) this week expands on this point). Finally, Ms. Bowman expanded on her criticism of recent inter-agency climate-risk guidance ([see FSM Report CLIMATE17](#)), calling it unclear, unduly expensive, and problematic with regard to LMI-community impact.

## FHFA Starts FHLB Redesign

FHFA today [released](#) its long-awaited assessment of the Federal Home Loan Banks, laying out an ambitious program of supervisory, regulatory, and statutory issues. Near-term FHFA plans to rewrite the FHLB's regulatory mission presage immediate reforms, focusing the System more on member liquidity under usual circumstances, with the agency expressly stipulating that Banks should not serve as sources of emergency liquidity as proved the case in recent bank failures. As we will detail in a forthcoming in-depth report, FHFA is essentially telling the Banks to tell primary regulators and the Federal Reserve when members do not clearly qualify for advances. Although some in the System hoped FHFA would allow them to become a new emergency-liquidity window, we [anticipated](#) that FHFA would reflect FDIC concerns about resolution costs resulting from the prior lien.

FHFA also plans to explore allowing the Banks to hold interest-bearing bank accounts to enhance their own liquidity, curtailing single-member advances when these are sizable, and improving capital management and stress testing. FHFA also plans tighter focus on the System's housing mission, encouraging Congress to double mandatory affordable-housing commitments and finding ways to support mission-focused members. Governance changes to Bank boards are also in the works along with operational improvements to encourage greater shared System infrastructure.

## McHenry Slams CFPB Digital-Payment Proposal

HFSC Chairman McHenry (R-NC) [today](#) slammed the CFPB not for usual causes, but because he believes the agency's proposed supervisory [standards](#) for nonbank general-use digital-payment providers will "entrench the status quo" – i.e., the role of banks – by eliminating consumer choice and impeding

innovation. Mr. McHenry argues that this impedes competition and thus hurts consumers and small businesses. It is unlikely that this concern will slow Director Chopra.

## Recent Files Available for Downloading

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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](http://www.fedfin.com) or clients may obtain the reports/analyses by e-mailing [info@fedfin.com](mailto:info@fedfin.com) giving the requested item name, firm, and e-mail address. To learn more about *GSE Activity Reports*, click [here](#).

- **[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 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.

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