FedFin Daily Briefing

Monday, December 11, 2023

Treasury Broadens Illicit Finance Scope to CRE, Investment Advisors

In connection with an order sanctioning two Afghanis for transnational corruption, Treasury and FinCEN today issued a fact sheet on actions under way to address corruption and other illicit transactions. The release for the first time indicates that Treasury will go beyond ongoing efforts to track illicit residential real-estate transactions also to govern commercial real estate. The release also builds on prior indications that FinCEN will address investment advisers, noting that it will in the first quarter of 2024 issue an updated NPR that would propose applying AML/CFT requirements, including SARs, to certain investment advisers. The release also notes that Treasury intends to finalize beneficial ownership information (BOI) requirements "in the near term."

White House Threatens Veto on Bill Curtailing OCC, Other Agencies

The House Rules Committee is expected today to clear H.R. 357 for floor action as soon as tomorrow, prompting the White House to issue a veto threat. Introduced by Reps. Cline (R-VA), Golden (D-ME) and 18 Republicans, the bill would require any formal agency proposal to be issued by and signed by a Senate-confirmed Presidential appointee. The Administration opposes the measure on grounds that it would add unnecessary bureaucratic hurdles without providing additional benefits given existing accountability procedures. The most immediate impact of this bill would be to block Acting Comptroller Hsu from issuing any agency or inter-agency rule. The measure may advance by a narrow GOP margin in the House but is sure to fail in the Senate, making the veto threat more a reminder to Democrats than a serious obstacle to enactment.

Warren Presses Case for Crypto Standards in NDAA

Strengthening her position ahead of a fight with HFSC Chair McHenry (R-NC) over crypto provisions in the NDAA, Sen. Warren (D-MA) today announced that Sens. Hickenlooper (D-CO) and Luján (D-NM) alongside Senate Banking Committee members Warnock (D-GA), Butler (D-CA), and Van Hollen (D-MD) joined Sen. Warren and 14 other Senators as co-sponsors of the Digital Asset Anti-Money Laundering Act. The legislation would extend AML and related responsibilities to digital assets, a move deemed essential for national security. Chair McHenry does not oppose the bill per se but wants the NDAA also to include his rewrite for cryptoasset regulatory jurisdiction and requirements to which Democrats strongly object.

CGFS Wants LTV-Related Capital Rules Adjusted to Reflect House Prices

Reviewing the link between housing finance and systemic risk, the BIS Committee on the Global Financial System's report today focused on the need for automatic stabilizers that provide macroprudential controls in this high-risk sector. DTI limits are found to be naturally counter-cyclical due to increasing limits on borrowing capacity as house-prices increase, with fixed interest rate floors under them perhaps also having useful stabilizing results where most mortgages have ARMs or balloons. LTV limits are found not to be useful systemic-risk buffers unless they are actively adjusted to reflect house-price increases, presumably absent limits on equity extraction. This problem is said to be also evident in internal-ratings-based risk weights which adjust in concert with house prices and thus reduce RWAs when equity appears to increase. The CGFS thus recommends risk-weight floors to mitigate this effect, but the CGFS does not expressly endorse the use only of LTV-triggered RWAs that do not adjust as house prices vary, the standards imposed by the BIS end-game rules and the U.S. proposals to implement them (see FSM Report **CAPITAL231**). Under the new U.S. approach, mortgage RWAs are set based on LTV at origination, allowing banks to hold what could be more or less capital than necessary based on risk related to house-price movement.

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.

- **GSIB23:** The agencies' capital proposal (see FSM Report **CAPITAL230**) unsurprisingly dominated discussion at today's Senate Banking hearing with big bank CEOs.

- **FINTECH33:** At today's HFSC Digital Assets Subcommittee hearing on banking agency financial innovation, Republicans raised concerns about the Fed's novel activities guidance (see FSM Report **FINTECH32**), interagency guidance on third-party risk management (see FSM Report **VENDOR10**), and the SEC's predictive data analytics proposal.

- **CONSUMER54:** Today's Senate Banking hearing with Director Chopra was even more cordial than yesterday's HFSC session (see *Client Report* **CONSUMER53**) even though Republicans continued to criticize the Bureau's recent rulemakings.

- **GSE-113023:** A new FRB-NY study confirms that 83% of loans from 2000-2022 went to first-time homebuyers, compared to 56% for the GSEs and 57% for private lenders.

- **CONSUMER53:** In sharp contrast to most recent HFSC hearings with CFPB Director Chopra, today's session was relatively calm.

- **GSE-112723:** The most significant thing in FHFA's final capital rule is not what is to be done, but what FHFA left out: ending the GSEs' advanced-approach requirement.

- **DEPOSITINSURANCE122:** As the law requires and the FDIC Chairman promised after SVB and Signature Bank were declared systemic, the FDIC has finalized its proposed approach to imposing a systemic assessment to reimburse the Deposit Insurance Fund (DIF) for the resolution costs related to uninsured deposits following a systemic designation.

- **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 requirements will prove itself in the final standards.

- **REFORM230:** Following yesterday's Senate Banking hearing (see *Client Report* **REFORM229**), today's HFSC session with top bank regulators again highlighted growing bipartisan consternation over the unintended consequences of the agencies' capital proposal (see FSM Report **CAPITAL230**).

- **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.

- **REFORM229:** Today's Senate Banking hearing with top bank regulators showcased broad bipartisan concern over the interagency capital proposal (see FSM Report **CAPITAL230**).

- **SIFI37:** In concert with finalizing a new systemic-risk methodology, the Financial Stability Oversight Council issued guidance that significantly rewrites the manner in which nonbanks are designated as systemically important financial institutions (SIFIs), largely retaining its initial proposal.

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