FedFin Daily Briefing

Monday, December 18, 2023

House Dems Press Tax-Equity Bond Capital Fix

Emphasizing their strong support for the capital proposals, 107 Democratic lawmakers led by Rep. Sean Casten (D-IL) have sent a letter to Chair Powell, Chair Gruenberg, and Acting Comptroller Hsu again asking for revised treatment for clean energy tax-equity bonds. This is one of the main Democratic objections to the proposal and one we continue to expect to be addressed through fixes to the treatment of non-significant equity positions.

Updated GSIB Indicator Amounts Now Effective

The Fed today published updated Aggregate Global Indicator Amounts pursuant to its GSIB surcharge rule (see *Client Report* **GSIB5**). Total exposures fell from $111.5 trillion last year to nearly $109.5 trillion, while intra-financial system assets increased (from about $10.7 trillion to $10.8 trillion) and intra-financial system liabilities fell from $11.15 trillion to $10.98 trillion. The 2023 aggregate global indicator amounts are effective immediately and will factor into the way the FRB now designates GSIBs and applies the U.S. surcharge.

FSB Finds U.S. NBFI Assets Continue to Dwarf Banks

The FSB today released its 2023 Global NBFI monitoring report, finding that NBFIs continue to hold a larger percentage of financial assets than banks in the U.S. The sector (including pension funds, insurance companies, and OFIs) now holds sixty percent compared to banks' 22 percent. This is little changed from last year's findings. The report also finds that, measured by the size of links as a proportion of respective sector assets, interconnectedness between the banking and NBFI sectors decreased in 2022 but inter-connectedness among NBFIs increased. Total NBFI sector financial assets declined by 5.5 percent in 2022 mainly due to valuation losses in MTM asset portfolios. Nearly half of this decline was driven by a 2.9 percent decrease in financial assets of the FSB's narrow NBFI measure, which fell to $63.1 trillion in 2022. Total year-end 2022 financial assets were $461.2 trillion, of which $217.9 trillion were NBFI assets. In addition, MMFs experienced inflows between Q2-Q4 2022, increasing assets under management of non-government and longer-term MMFs. The report also notes that, while MMFs, other investment funds, structured finance vehicles, and trust companies tended to be net cash providers through reverse repo transactions, broker-dealers, hedge funds and finance companies achieved an almost net zero repo position in 2022.

DOJ/FTC Stand Firm on New Anti-Concentration Merger Policy

Justice and the FTC today released the final version of new merger guidelines, softening but not clearly weakening the agencies' draft (see FSM Report **MERGER12**). The new guidelines omit an express standard for vertical mergers, but the agencies' approach to these transactions – upheld with regard to a biomed company late last week – still appears to be covered in the guidelines' general precepts. Initial review indicates that the DOJ/FTC standards still view information holdings (e.g., patents, personal data) as a form of market power and will review minority-interest acquisitions to prevent undue concentration. We will shortly provide clients with an in-depth analysis of the standards, which apply directly to bank mergers when the Justice Department reviews them as well as more generally to the market power of major nonbank financial-sector competitors.

Warren, Allies Attack Hsu's Preemption Policy

Making it clear that Acting Comptroller Hsu will have challenges from Democrats should the White House ever nominate him as Comptroller, seven Democrats led by Sen. Warren (D-MA) sent him a letter today accusing the agency of overstepping and abusing its preemption authority. The letter states that the OCC has not provided the requisite five-year preemption reviews demanded by the DFA (see FSM Report **CONSUMER14**), demanding the agency do so immediately. The senators also call for the OCC to rescind preemption rulings such as 2011 preemption regulations (see FSM Report **PREEMPT27**) and an interpretive letter from 2020. The letter also urges the agency to submit guidance directing national banks to comply with state requests for information regarding non-preempted state consumer protection laws. A briefing and written update are requested by December 29, 2023.

McHenry Asks CFPB to Change Open-Banking Secondary Data Approach

HFSC Chairman McHenry (R-NC) today sent a comment letter to CFPB Director Chopra reiterating the support expressed at a recent hearing (see *Client Report* **CONSUMER53**), for the agency's open banking proposal (see FSM Report **DATA4**), but now asking for changes related to secondary data. He is concerned that the proposal's approach here curtails product innovation, urging Mr. Chopra to use opt-in/opt-out options for these consumer data. Mr. McHenry also repeats his commitment to enacting an updated federal privacy statute applying to financial services, not just banks. The letter has no response deadline.

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.

- **FSOC29:** This year's FSOC report trods much old ground with two exceptions. The first pertains to a new focus on artificial intelligence, machine learning, and new, generative technologies.
- **GSE-121423:** In a blog post today, Fannie quietly renews its quest for alternatives to traditional title insurance.
- **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.

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