



FedFin Weekly Alert

Monday, January 8, 2024

❑ CATCH-UP CLASS

We hope you had a long, lovely holiday and are energized for what will be a chaotic year of critical final regulatory decisions and turbulent political action. FedFin analysts used the quiet time to ensure that we provided clients with in-depth analyses of important actions at the end of 2023 to be sure we're all ready for 2024. In case you missed it, check out:

- [MERGER13](#): This report analyzes final DOJ and FTC revisions to U.S. antitrust policy that significantly redesign the manner in which M&A transactions will be considered. The guidelines' sweeping approach would address a wider range of potential M&A harm, with DOJ or FTC staff assessing new factors such as worker impact and information concentrations. As we note, this may now clear the way for long-awaited bank-merger policy, but DOJ's willingness to clear deals that manage to get a Fed OK will prove still more uncertain.
- [DEPOSITINSURANCE123](#): We here analyze the FDIC's final rule on advertising sign and logo requirements and insurance- status misrepresentation. New signage, displays, or postings must clearly and continuously advise retail customers when funds are FDIC insured and that FDIC insurance does not cover offerings in other facilities that would now have to be segregated from where insured deposits are received. Banks with nonbank partnerships involving deposits will need to take additional steps to ensure that consumers fully understand when FDIC insurance does and does not apply. The new standards also make it even more difficult for cryptoasset arrangements between banks and nonbanks, while Fintechs and crypto issuers now have clear guidance as to when actions may be deemed misrepresentations resulting in FDIC enforcement.
- [NBF13](#): This report analyzes the FRB, FDIC, and OCC's proposal to require banks with over \$10 billion in assets to report new and significantly more granular data on their nonbank exposures. The requirements would likely require extensive new internal reports and controls at large banks, while covered nonbanks could see a decrease in credit availability.
- [GSE-010224](#): We here look at how the proposed call reporting changes would impact nonbank mortgage companies and the GSEs. Restrictions on outlier banks with large nonbank mortgage company exposures could impede access to standby liquidity, especially if the agencies decide that the data suggest the need for express

restrictions. New reports could also capture forms of structured credit-risk transfers, further reducing bank appetite to take on these positions from the GSEs.

- [AI4](#): This in-depth analysis focuses on S. 3554, the Financial Artificial Intelligence Risk Reduction Act (FAIRR Act), bipartisan Senate legislation that would force FSOC to reckon with AI's systemic risk. Publicly-traded entities using AI would need to ensure AI-model validity or create new risk-management protocols and mandatory AI scenario analyses would be likely for all federally-regulated financial institutions.
- [ILC17](#): This report analyzes new bipartisan legislation from Senate Banking Chairman Brown (D-OH) as well as Sens. Kennedy (R-LA), Van Hollen (D-MD), Wicker (R-MS), Braun (R-IN), and Casey (D-PA) that would put new ILC parent companies under FDIC supervision and examination requirements to hopes of increasing the ability of a parent company to serve as a source of strength for an ILC.
- [INCLUSION3](#): FedFin here analyzes a new Treasury RFI on the Department's statutorily required financial-inclusion policy. No action is mandated beyond strategy development that might then include actionable recommendations, but recommendations in response to this report may spur government agencies to act or give the next Congress proposals for statutory change.
- [GSE-121923](#): This report reviews a recent CFPB research [blog](#) on cash-out refis, with the Bureau concluding that cash-outs aren't likely a renewed source of systemic risk, a point with which we concur as long as house-price appreciation continues and economic conditions remain sound. The Bureau also found that cash-out refi borrowers between 2013 to 2023 had lower credit scores, lower incomes, and smaller loan amounts and were more likely to be older, female, Black, and Hispanic.

Headlines From the Past Week's Daily Briefings

January 2

- No news of note.

[January 3](#)

- **EBA Plans Full-Bore NBFi Crackdown:** We will shortly provide clients with an in-depth analysis of notable changes to call reporting released for comment late last year. The *Financial Times* [interviews](#) José Manuel Campa, the chair of the European Banking Authority (EBA), whose comments on NBFIs make it clear that, as we expected, the U.S. action is part of a broader global push to map bank/NBFi interconnections and then curtail them.

- **Women Do Too Know:** The Federal Reserve Board this week has [issued](#) a staff note finding that the so-called financial literacy gender gap is largely driven by study design, not gender differences in financial literacy.

[January 4](#)

- **IMF Urges CBDC Caution:** Taking a more cautious stand on CBDC and cross-border payments than often heard from international financial institutions, the IMF released a study recommending that policymakers ensure that CBDC or any other form of public digital money is carefully designed and interoperable with existing payment systems. Policymakers are also encouraged to enhance public-private policy coordination and regulate global stablecoins as well as other forms of private digital money.

January 5

No news of note.

This Week

Wednesday, January 10

HFSC Subcommittee on Capital Markets Hearing entitled: “Examining the DOL Fiduciary Rule: Implications for Retirement Savings and Access.” [10:00 am, 2128 RHOB]. Witnesses: TBD.

HFSC Subcommittee on Digital Assets, Financial Technology and Inclusion Hearing entitled: “Regulatory Whiplash: Examining the Impact of FSOC’s Ever-Changing Designation Framework on Innovation.” {2:00 pm, 2128 RHOB}. Witnesses: TBD.

Thursday, January 11

HFSC Hearing entitled: “Oversight of the Department of Housing and Urban Development and the Federal Housing Administration.” [10:00 am, 2128 RHOB]. Witnesses: TBD

Future Events of Note

No meetings of note.

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

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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](#).

- **[INCLUSION3](#)**: As required by law, the U.S. Treasury is working to set policy enhancing financial inclusion. While it seeks recommendations for new policies in areas ranging from predatory lending to technological innovation and new federal programs, it is unclear how actionable its findings will prove and if federal policymakers then implement those possible under current law.
- **[NBF13](#)**: The banking agencies have proposed significant changes to call-reporting data illuminating how banking organizations are inter-connected with nonbank financial intermediaries and to implement pending requirements for long-term debt (LTD) issuance.
- **[DEPOSITINSURANCE123](#)**: In the wake of increasing instances in which customers are confused and even misled about the extent to which fintech and cryptoasset holdings are insured deposits, the FDIC has finalized its proposal setting disclosure standards as well as modernizing IDI representations of their own FDIC-insured offerings in branches and through the fast-changing array of retail banking delivery channels.
- **[GSE-010224](#)**: Shortly before the new year, the banking agencies proposed new call-report [requirements](#) that would force banks with over \$10 billion in assets to report new data on nonbank mortgage intermediaries and structured GSE-guaranteed positions.
- **[AI4](#)**: Bipartisan Senate legislation has been introduced to press FSOC to do more than highlight artificial intelligence (AI) as a potential threat to financial stability.
- **[MERGER13](#)**: Building on a request for comment and a formal draft, the Department of Justice (DOJ) and Federal Trade Commission (FTC) have finalized specific revisions to U.S. merger policy that significantly redesign the manner in which M&A transactions will be considered.
- **[SANCTION21](#)**: [As promised](#), this report provides an in-depth assessment of President Biden's Friday [executive order](#) expanding anti-Russia sanctions via secondary ones on financial institutions that – knowingly or not – facilitate or conduct newly-identified transactions related to sanctioned persons, services, or goods.
- **[ILC17](#)**: Senate Banking Committee Chairman Brown (D-OH) is now leading a renewed bipartisan charge to limit the ability of nonbanks to use industrial loan companies (ILCs) to gain access to bank privileges without the parent-company supervision required of all other domestic IDI parents.