FedFin Daily Briefing

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McKernan Presses for Active Review of Asset-Manager Passivity

FDIC Director McKernan today reiterated his prior recommendation that the banking agencies review the stakes of large asset managers in banking organizations to ensure that they are truly passive. Mr. McKernan is a former staffer for retired-Sen. Toomey (R-PA), who raised this concern towards the end of 2021 out of fears that asset-management ESG demands are unduly influencing banks. Mr. McKernan goes beyond this concern also to state that the asset managers are now pushing the boundaries of passivity in other ways as defined under reliant bank-regulatory actions or in some cases even exceeding it, thus warranting coverage under the BHC and Change in Control Acts. FDIC staff are now considering this issue, with Mr. McKernan recommending near-term supervision to ensure asset managers comply with the agency's standards and a notice-and-comment rulemaking as to what these should be going forward. The GOP director also wants the FDIC to speed the time it takes to consider applications and mergers, also urging that losses in bank and BHC failures should be "privatized" without explaining what this might entail. The speech also reiterates concerns about the Basel end-games rules.

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.

- **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.

- **NBFI3:** 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.