FedFin Daily Briefing

Wednesday, January 17, 2024

CFPB Tries to Bring Overdraft Fees Under New Benchmark

Arguing that overdraft fees are a big-bank "junk-fee harvesting machine," CFPB Director Chopra today released a long-awaited proposal to cap fees to what the agency considers a reasonable threshold. This is the same approach taken in its credit-card late-fee proposal (see FSM Report **CREDITCARD36**), but Congress there established such a benchmark; here, the CFPB is crafting one on its own. We will shortly provide clients with an in-depth analysis of the new proposal, which applies to banks with over $10 billion in assets and tackles overdraft rates the agency considers a "profit driver" rather than a customer convenience. Comments are due on April 1, a deadline likely set to give the Bureau a chance to ensure Presidential veto should Congress pass override legislation as was recently done for its small-business reporting rule.

Bowman Expands Basel Critique, Key Dem Now Points to Problems

In remarks today, FRB Gov. Bowman did not go quite as far as her colleague Chris Waller yesterday, but she nonetheless urged that the end-game rules be re-proposed after comments are taken into account. She has given no ground on her concerns about the need for greater tailoring and substantive change in key sections, now also noting provisions adversely affecting derivatives end-users. Ms. Bowman also renewed her critique of the ESLR, highlighting problematic market-liquidity consequences.

HFSC Financial Institutions Chair Barr (R-KY) at the same event reiterated his criticisms of the proposal, and Ranking Member Foster (D-IL) noted that higher capital standards may well have needed benefits, but ramped up criticism from a prior hearing, now saying that he fears the rules will adversely affect small businesses and lead to undue concentration, especially among "digital banks."

Senate Banking GOP Again Urges Capital Proposal Withdrawal

Senate Banking Ranking Member Scott (R-SC) along with all Committee Republicans late yesterday sent a letter to FRB Chair Powell, FDIC Chairman Gruenberg, and Acting Comptroller Hsu once again calling on the regulators to withdraw the capital proposal (see FSM Report **CAPITAL230**). They say again that the rule is backed by insufficient economic analysis, also highlighting the problem raised by Vice Chair Barr's November testimony (see *Client Report* **REFORM229**), when he admitted that there has been no official holistic analysis. The senators also argue that the Fed's subsequent data collection represents an admission that the agencies failed to conduct robust policy and risk-weighted asset impact analyses prior to proposing the rule. No response is requested.

Biden, Brown Praise CFPB Overdraft Proposal

Following the CFPB's announcement of its proposed rule regarding overdraft fees today, President Biden again denounced "junk fees" as "exploitation," and included the CFPB's proposal in his administration's efforts to lower costs for American consumers. The statement highlights the proposed rule's $3.5 billion a year in estimated savings while condemning Republican opposition. Senate Banking Chairman Brown (D-OH) today also issued a statement praising the CFPB's work to eliminate junk fees and pledging to review the proposed rule.

FRB/FDIC Provide Limited-Time Resolution-Plan Filing Flexibility

Reflecting a problem we identified in our assessment of the resolution-plan proposal (see FSM Report **LIVINGWILL22**), the FRB and FDIC today extended the resolution plan submission deadline for categories II and III banks from July 1, 2024 to March 31, 2025. This might seem non-controversial, but FRB Gov. Bowman and FDIC Vice Chair Hill argued that the agencies should have simply extended the filing deadline for one year after the resolution-planning rule is final rather than setting a specific filing deadline in order to ensure that banks have the one-year advance notice required by law.

Global Regulators Turn to OTC-Derivative Margin Improvement

Following yesterday's release with the CPMI focused on CCPs and clearing members, the Basel Committee and IOSCO today turned to OTC derivatives. Here as with the CCP-focused consultation, global regulators seek views on principles designed to streamline initial and variable margin responsiveness and margin-model quality. The proposal also encourages greater use of noncash collateral to minimize the dash-for-cash dynamic of the 2020 crisis highlighting also the need for greater market standardization and operational-risk management improvement, but no changes in global standards would result. Comment is due by April 17.

New Fed Study: Stringent Rules, Certain CBDCs Accelerate Shift to Shadows

A new Fed staff paper assesses monetary-policy transmission in a world of CBDCs, stablecoins, nonbanks, and tough new bank rules. We think this a significant advance in Fed research because the paper's models (see below) reflect the substitutability of bank for nonbank assets and liabilities across the broader market made still more frictionless by the Fed's ONRRP. We focus here on policy decisions other than those specific to monetary-policy transmission, focusing first on how the models test the impact of rules akin to Basel III, also illuminating the end-game standard impact and that of other pending rewrites. As banks have found in practice, tougher liquidity requirements are found to lead banks away from lending to larger holdings of Treasury obligations and reserves. This is well known, but the model also reinforces concerns about shadow banking by finding that, when banks move out, nonbanks move in with a small net deduction in total credit availability. A similar effect is observed when modelling higher capital requirements. The paper observes that all the new rules may well make banks safer, but the resulting larger nonbank role offsets this benefit. New rules are also found to affect the ability of the Fed to administer rates through interest on reserves, making the Fed more dependent on the ONRRP to transmit monetary policy – a challenge given ONRRP drawdowns as rates rise and the hopes of Gov. Waller and others at the Fed to phase it out. In a particularly novel finding, the paper's models also show that higher leverage-capital requirements spark transformation of bank deposits into other products such as stablecoins, also increasing the role of nonbank financial intermediation.

The paper's focus on nonbanks also adds a new element when it comes to assessing how households and businesses would adjust to new physical-currency options. The model assumes that retail and wholesale CBDCs would pay interest, concluding that the rate of interest would determine the extent to which households reduce deposits and wholesale fundings moves away from banks. In general, CBDCs are likely to reduce bank financial intermediation, increasing the nonbank role and slightly reducing credit availability. These effects are in fact anticipated by the FRB, which has thus expected a preference for no CBDC or, should one be instituted, CBDC that does not pay interest and relies on banks.

These findings are derived from an analytical framework comprised of interconnected supply/demand curves for all financial instruments in a competitive market taking into account portfolio-allocation decisions such as

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yield-chasing and financial-intermediator balance-sheet costs. The paper is thus complex, frankly acknowledging the dependence of its conclusions on critical qualitative and simplifying assumptions. However, it is in our judgment an important contribution to research on new rules and CBDCs, as well as to the unduly-small literature about the impact of the Fed's shift to the ample-reserve regime taking into account both banks and nonbanks in the midst of technological innovation and regulatory transformation.

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.

- **GSE-011224**: A new staff paper from the Federal Reserve Bank of New York assesses the tender topic of bank mortgage lending to minority borrowers.
- **GSE-010924:** Based on recent dialogue with institutional investors and regulators, a new FRB-NY Teller Window article concludes that robust data collection, loan standardization, and higher volume could improve CDFI secondary market sales.
- **GSE-010824:** It's not news to observe that things that change at the GSEs then change a lot of other things.
- **INCLUSION3:** As required by law, the U.S. Treasury is working to set policy enhancing financial inclusion.
- **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.
- **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.

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- **GSE-121923:** The CFPB yesterday released a fascinating research blog looking at cash-out refis.

- **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.

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