



FedFin Weekly Alert

Monday, February 19, 2024

❑ BAGEHOT'S LEGACY

HFSC Financial Institutions Chair Barr (R-KY) last week invoked the patron saint of central banks, Walter Bagehot, reminding his hearing ([see Client Report LIQUIDITY34](#)) that central banks are to use their lender-of-last-resort powers only for solvent banks and then only at a premium. To do other, Bagehot said and Mr. Barr repeated, is to encourage moral hazard, the sin the chair went on to attribute to the modern-day Federal Reserve. He also floated legislation to curb the Fed's 13(3) emergency-liquidity powers, legislation on which he will have a surprising ally, Sen. Elizabeth Warren (D-MA). She is a long-time advocate of tougher restrictions on Fed emergency liquidity ([see FSM Report FEDERALRESERVE21](#)). Still, we think the odds of legislation in this Congress are small, with Congress, the agencies, and banks sure instead to focus on what will be demanded of them in terms of discount-window readiness, FedWire resilience, FHLB access, and additional liquidity. Vice Chair Barr is less enthusiastic than Acting Comptroller Hsu about new liquidity [standards](#), but much is afoot and thus so are we. More to come...

Headlines From the Past Week's Daily Briefings

[February 12](#)

- **Bowman Presses New Community-Bank Regulatory Construct** - FRB Gov. Bowman [recommended](#) that community banks be differentiated from larger ones based not on asset size as now, but rather by their business model.
- **IMF Targets Margining Risks** - Reinforcing the work of global [regulators](#) addressing margining liquidity-risk fears, the IMF [released](#) a staff study finding that as much as a third of EU investment funds that are large derivatives end-users could not meet their variation-margin requirements under stress.
- **HFSC Set to Demand Much from Treasury, FinCEN** - The HFSC majority-staff memo on FinCEN's [hearing](#) makes it clear that Under-Secretary Nelson and FinCEN director Gacki will face hard questioning on anti-money laundering and CFT topics.
- **FFIEC Redesigns Valuation-Bias Exam Protocol** - Arguing that deficient real estate valuations due to bias or discrimination cause consumer harm and pose safety-and-

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soundness risks, the FFIEC issued a [statement of examination principles](#) regarding valuation discrimination and bias in residential lending.

February 13

- **Durbin Tries Another Approach to Advance Card-Fee Limits** - After trying various ways to bring his credit-card fee bill to the [floor](#), Senate Judiciary Committee Chair and Majority Leader Durbin (D-IL) has scheduled a [hearing](#) on this controversial bipartisan measure ([see FSM Report INTERCHANGE10](#)).
- **FinCEN Reaches SEC Agreement to Bring Investment Advisers Under AML/CFT Standards** - As it has [repeatedly promised](#), FinCEN [revised](#) a 2015 proposal and issued a new one to subject investment advisers to AML and CFT requirements similar to, but still less restrictive than, those that have long governed banks.
- **HFSC Rallies to Crypto AML/CFT Defense** - The HFSC [staff memo](#) on the Digital-Assets Subcommittee hearing makes it clear that cryptoasset entities will be given a strong platform from which to resist calls in the [Senate](#) to subject cryptoasset transactions to AML and sanctions law.
- **Gensler Reinforces AI Concerns** - In remarks, SEC Chair Gensler acknowledged AI's benefits in a manner consistent with the President's executive order ([see Client Report AI3](#)), but then launched into a sharp critique of its risks in line with the agency's pending rule in this [arena](#).
- **Bowman Takes Fed Accountability, Transparency to Task** - In an [essay](#), FRB Gov. Bowman emphasized that regulatory accountability does not undermine the independence also essential to a sound, innovative banking system.
- **Gensler Turns to Bank/Hedge-Fund Interconnection** - In addition to his speech on AI, SEC Chair Gensler today engaged in a wide-ranging discussion of key financial policy questions.

February 14

- **Global Regulators Propose Ways to Limit Variation-Margining Stress** - [As promised](#), CPMI and IOSCO [have issued](#) a discussion paper on CCP and clearing-member variation-margin practices.
- **HFSC Deploys Power of the Purse to Pressure FinCEN** - As [anticipated](#), HFSC's hearing with Treasury and FinCEN was highly partisan, with Republicans continuing to blast FinCEN for what they call SAR surveillance and now threatening to block any increased funding for FinCEN until it also improves beneficial-ownership reporting to the GOP's liking.
- **Barr Sees Banking System as Strong, Liquid** - In [remarks](#), FRB Vice Chair Barr emphasized that, despite pockets of risk and CRE worries, the banking system is sound and he sees no liquidity-risk concerns across the financial system.

February 15

- **Bowman Focuses on Inclusive Cross-Border Payments** - FRB Gov. Bowman [emphasized](#) that national and global payment-system improvements must not only work for the financial system and payment providers, but also for end-users and broader inclusive growth.
- **Senate Dems Resume Attack on Zelle** - Retreating from his stand during a recent hearing that seemed to absolve Zelle ([see Client Report PAYMENT28](#)), Senate Banking Chairman Brown, (D-OH) along with Sens. Warren (D-MA) and Reed (D-RI), [sent](#) a letter reiterating calls for Zelle to clarify its reimbursement policy for impostor scams.
- **Waller Sees Impregnable Dollar Dominance** - FRB Gov. Waller [mounted](#) a strong defense not only of the dollar as the globe's reserve currency under current conditions, but also even as digital currencies become more widely deployed.

February 16

- **Barr Points to Tough New Fed Supervisory Strategy** - FRB Vice Chair Barr [updated](#) FRB efforts to enhance bank supervision since its SVB post mortem revealed severe failings ([see Client Report REFORM221](#)).
- **CFPB Report Continues Credit Card Attack** - Buttressing its controversial credit-card late-fee proposal ([see FSM Report CREDITCARD36](#)), the CFPB issued a [report](#) finding that the 25 largest credit card issuers charged interest rates eight to ten percentage points higher than small-and-medium-sized banks and credit unions.
- **House GOP Tries to Speed Bank M&A** - Following up a [letter](#) sent to the federal banking agencies in October, HFSC Financial Institutions Subcommittee Chair Barr (R-KY) and Rep. Fitzgerald (R-WI) [introduced](#) the Bank Failure Prevention Act, a bill to require the Federal Reserve to act on bank merger applications within ninety days.

This Week

No meetings of note.

Future Events of Note

Wednesday, March 6

HFSC Hearing entitled: "The Federal Reserve's Semi-Annual Monetary Policy Report." [TBD]. **The Honorable Jerome H. Powell**, Chairman, Board of Governors of the Federal Reserve System.

Thursday, March 7

Senate Banking Hearing entitled: "The Semiannual Monetary Policy Report to the Congress." [TBD]. **The Honorable Jerome H. Powell**, Chairman, Board of Governors of the Federal Reserve System.

Tuesday, April 9

Senate Judiciary Hearing on credit card fees. [10:00 am, Dirksen Senate Office Building room G50].

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-021624](#): In this report, we build on our in-depth analysis yesterday of the Fed's new stress-test scenarios to focus on their mortgage-market impact.
- [STRESS32](#): In this report, we assess the strategic and policy implications of the Fed's new [stress-test regime](#).
- [LIQUIDITY34](#): Today's HFSC Financial Institutions hearing on emergency liquidity featured much discussion of reform, but few indications of any action Congress will take to advance it apart from support for pending agency efforts to enhance discount-window [readiness](#).
- [FSOC31](#): Treasury Secretary Yellen's hearing today before Senate Banking followed the path set in Tuesday's HFSC session ([see Client Report FSOC30](#)), with Ms. Yellen refusing to take a stand on matters such as the capital rules and banking-agency supervisory effectiveness.
- [FSOC30](#): As [anticipated](#), today's HFSC hearing with Treasury Secretary and FSOC Chair Yellen showcased sharp Republican criticism of the Council's nonbank designation authority ([see FSM Report SIFI36](#)), with Chairman McHenry (R-NC) and Financial Institutions Subcommittee Chairman Barr (R-KY) citing the guidance as yet another example of regulatory politicization, calling FSOC a "rogue" and "roving" regulator.
- [MERGER14](#): Although all of the banking agencies have for years promised a new bank-merger policy, none has proposed one until this OCC rulemaking.
- [PAYMENT28](#): Today's Senate Banking Committee hearing on scams and fraud in the banking system focused on the rise of P2P payment app scams, the growing popularity of traditional methods of fraud executed via wire transfer and check fraud, and emerging crypto and AI risks.
- [AI5](#): Although FSOC's latest annual report highlights AI risk, it does not request any express agency action, a hands-off approach that led to bipartisan legislation demanding a more forceful approach.
- [GSE-013124a](#): Common-stock investors clearly [think so](#), but they're a notably speculative lot and

more than likely wrong.

- **[GSE-013124](#)**: We have reviewed the 2024 scorecards FHFA [released](#) for Fannie and Freddie.
- **[CONSUMER55](#)**: The CFPB has followed up a controversial proposal to set prices for larger-bank overdrafts exempt from certain consumer standards with a proposal to simply ban certain non-sufficient fund (NSF) fees when banks decide in real time to decline a consumer-payment request.
- **[GSE-012424](#)**: In this report, we build on our previous analyses of the [mortgage implications of the pending capital rules](#), forecasting what's next for mortgage assets as the FRB, FDIC, and OCC wrestle with the mess Karen Petrou has elsewhere [argued](#) they brought upon themselves by careless analytics and political misjudgment.
- **[OVERDRAFT12](#)**: Building on a bulletin and circular from late 2022 warning banks about certain overdraft practices, the CFPB has now proposed a rule that would sharply and expressly limit fees for extensions of credit related to overdrawn transaction accounts unless the account comes under an array of consumer-protection requirements.