FedFin Daily Briefing

Friday, February 2, 2024

Powell, Hsu Add to Pressure on SEC Crypto-Custody Standards

As we noted yesterday, Congressional Republicans are now mounting a Congressional Review Act effort to repeal the SEC's staff accounting bulletin (see FSM Report **CUSTODY5**) requiring balance-sheet recognition of crypto-custody deposits at considerable cost to banking institutions. Letters have now been released from Chair Powell and Acting Comptroller Hsu backing banking industry opposition to the overall treatment of crypto deposits held at banks. Chair Powell notes that the SEC proposal would codify the SAB with regard to requiring cash segregation for crypto deposits, stating that these are deposits well managed by bank regulatory standards. Mr. Powell also notes that the rule is solely the purview of the SEC but that the Fed has expressed its views to the commission. Mr. Hsu also opposes the cash-segregation proposal, adding to it a critique of related liability and indemnification requirements. OCC staff have "informally" shared this view along with unspecified other concerns to the SEC. As we noted yesterday, we expect the CRA resolution to pass the House and Senate. It is likely to be vetoed by the President, but the positions expressed by the banking agencies legitimize this critique and could lead the Commission to withdraw the SAB and remove related issues from the overall crypto proposal in hopes of quickly finalizing that aspect of the rule. As our in-depth analysis made clear, these still adversely affect bank-custody activities for non-crypto assets, but the SEC may revise these requirements as well to mollify the banking agencies.

Trump to Dump Powell

As we expected, Donald Trump today said that, if elected, he will not reappoint Jerome Powell. This decision will not present itself to the next president until Mr. Powell's term ends in January of 2026, but we do not think either of the candidates is likely to reappoint Mr. Powell should he seek a third term. Mr. Biden may now prefer to give this plum position to someone without Mr. Powell's growing baggage and Mr. Trump will personally blame Mr. Powell should the stock-market rally and economic boom he predicts following his re-election fail to materialize. Mr. Trump's comments today focused on the extent to which lower rates would help Democrats and risk to inflation due to ongoing geopolitical tension. Mr. Trump also called CBDC "very dangerous" due in part to how "scary" AI is.

GOP Bill Challenges Capital Proposal

Echoing long-held concerns of other HFSC Republicans, Rep. Ogles (R-TN) along with Rep. Donalds (R-FL) have introduced legislation (H.R. 7143) forcing regulators to withdraw the capital proposal (see FSM Report **CAPITAL230**). Rep. Ogles raised concerns that the proposal would limit credit availability and increase costs to the American public. While the bill may advance in HFSC, it will face challenges on the House floor and not advance in the Senate.

Senate Presses for Anti-Hungary Sanctions

In a statement that may lead financial institutions to review their exposures, Senate Foreign Relations Chair Cardin (D-MD) called on the Biden Administration to consider sanctions against Hungary due to its government's refusal until late yesterday to support EU efforts for Ukraine and its broadly anti-democratic program in general and with specific regard to pressuring the U.S. and its ambassador to Hungary. Sen. Cardin also called for specific sanctions against unnamed Hungarian officials under the Administration's kleptocracy-enforcement program. Media reports indicate that Sens. Shaheen (D-NH) and Tillis (R-NC) also reprimanded Prime Minister Orban for putting U.S. relations at risk not only with regard to Ukraine, but also for failing to support ratifying Sweden as a NATO member. In sharp contrast to Congressional action against China, we do not expect near-term legislation pressing for Hungarian sanctions due to Mr. Orban's strong support for Donald Trump.

HFSC Republicans Take Another Shot at FDIC

Continuing their campaign against FDIC Chair Gruenberg, HFSC Chair McHenry (R-NC) along with Subcommittee Chairs Barr (R-KY) and Hill (R-AR) sent a letter today to the FDIC questioning its decision to overhaul its innovation office's mission from fostering innovation in the financial sector in favor of internal technology improvement. The Republicans state that the agency's actions have "actively discouraged innovation," accusing it of "using extralegal pressures to attain anti-business results." They seek information on the agency's current fintech and innovation policy, an issue that has taken on new prominence since Biden Administration actions have sought to curb third-party vendor risk, including that via fintech "partnerships" (see FSM Report **VENDOR10**). A response is requested by February 29

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.

- **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.

- **GSE-012224:** A new Fed staff study uses models to conclude that government-backed mortgage securitization exacerbates financial crises, contradicting conventional wisdom that – GSE blow-ups notwithstanding – properly-regulated GSEs create a liquid, diversified asset pool for an otherwise illiquid, risky asset class.

- **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.

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