



Thursday, February 22, 2024

CapOne Deal Draws GOP Fire

Late [yesterday](#), Sen. Josh Hawley (R-MO) joined [Democrats](#) in strongly opposing the CapOne/Discover merger, doing so not only via a short statement, but also a [letter](#) to Assistant AG Kanter. Merger opposition is often popular with populists and it is thus not as surprising as it may seem that Sen. Hawley opposes the transaction, perhaps leading others in his wing such as Sen. Vance (R-OH) also to do so. Sens. Hawley and Vance along with Sen. Marshall (R-KS) are also cosponsors of Sen. Durbin's bill to curb credit-card interchange fees ([see FSM Report INTERCHANGE10](#)), a bill merchants' groups yesterday [said](#) is even more necessary in light of the pending merger. Sen. Hawley has also introduced legislation (S.2760) to cap card rates at eighteen percent, but this bill is unlikely to advance despite Democratic concerns about card rates due to GOP opposition to express interest-rate ceilings.

CFPB Buttresses Calls to Block CapOne Deal

Adding still more heat to the fire it [built](#) Friday on credit-card industry practices, the CFPB today [reported](#) that the average APR margin for credit-cards has reached an all-time high. APR margins were also found also to account for about half of the absolute card rate, which rose from 12.9 percent in 2013 to 22.8 percent in 2023. This is estimated to have cost customers an additional \$250 per average account in 2023, with higher margins not rationalized by any hike in charge-offs or larger subprime volume. The Bureau thus considers these margins to be "excess," another policy conclusion involving the Bureau not only in consumer protection, but also in direct rate and fee pricing in a fashion akin to proposed restrictions on credit-card late fees ([see FSM Report CREDITCARD36](#)). Further, the Bureau finds that high concentration in the consumer credit-card market inhibits competition that would lower APR margins. We thus move from inferring to concluding that the CFPB will do what it can to block the Capital One/Discover merger even though it plays no direct role in banking-agency and DOJ consideration.

Hsu Presses Cross-Border Cryptoasset-Platform Regulation

Speaking before the FSB's Crypto Working Group today, Acting Comptroller Hsu [made it clear](#) that multi-function cryptoasset intermediaries require a home/host-country regulatory construct akin to that adopted in the U.S. and around the world after BCCI's money-laundering scandal and failure in 1991. He also described how global regulators under the FSB's aegis are coordinating despite strong opposition from cryptoasset entities to any governance structure, noting the need also to prevent regulatory "over-accommodation." This builds on Mr. Hsu's comments [yesterday](#) emphasizing the importance of effective regulation that does not cut corners solely to advance "innovation." The Acting Comptroller also highlighted his agency's and FSB's work on tokenization, noting that it has significant benefits that require careful attention based on how tokenization relies on blockchain infrastructure.

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.