



FedFin Client Report

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NonBank Mortgage Companies Are Prime SIFI Target

Client Report: FSOC31

Executive Summary

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. Republicans in sparse attendance used the session to reiterate their critique of FSOC's systemic-designation standard ([see FSM Report SIFI36](#)) and the capital rules; Democrats were most focused on defending Bidenomics. However, questioning touched on NBF risk with a particular focus on nonbank mortgage companies; the secretary reiterated conclusions about possible systemic risks laid out in FSOC's most recent report ([see Client Report FSOC29](#)), now going further to say that one or another nonbank mortgage company could fail under market stress. As we noted when FSOC standards were released, nonbank mortgage companies are top targets for systemic intervention, with Ms. Yellen's comment today focused on individual companies suggesting that this might come via designation, not activity-and-practice standards. There was little focus on NYCB today, but much attention to CRE risk; the secretary reiterated that it is worrisome for smaller banks, but not systemic.

Analysis

Opening Statements

In addition to praising FSOC's recent work, Chairman Brown (D-OH) raised concerns about NBF risk and called for stronger regulation. Ranking Member Scott (R-SC) criticized Treasury for its Iranian sanctions strategy and raised concerns about FinCEN's "abuse of power" regarding its [alleged surveillance](#) of Americans' financial transactions.

Testimony

Secretary Yellen's testimony was the same as that delivered to HFSC Tuesday.

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Q&A

- **CRE:** Although Sen. Warren (D-MA) noted that NYCB is “teetering,” no other senator directly discussed the bank’s plight. Sen. Reed asked if FSOC is looking at CRE risk in “a comprehensive way”; Ms. Yellen said it was, emphasizing that FSOC has been communicating with bank supervisors to understand exposures, concluding that CRE risk is problematic for small banks but not systemic. Sen. Britt (R-AL) asked if the banking system is strong; Ms. Yellen said “there are some risks,” noting that some institutions will face CRE stress, but also that the system is “well-capitalized on balance.”
- **Capital Reform:** Sen. Britt also asked if FSOC is assessing how the capital proposal would affect the economy; Ms. Yellen said this was a “valid issue,” but not within FSOC’s purview. Chairman Brown asked the Secretary to explain why capital is necessary for a resilient banking system, which she did. Asked by Sen. Rounds (R-SD) if she would comment on the capital proposal, Ms. Yellen once again declined. Sen. Warren asserted that it will have a limited impact on community banks; Ms. Yellen agreed. Sen. Warren also argued that the capital proposal would prevent “bailout” risk, pointing to US GSIBs for what she said was push-back against the capital proposal to increase buy-backs. She also sharply criticized J.P. Morgan for what she said was a failure to follow through on minority-lending promises.
- **Nonbank Designation:** Chairman Brown emphasized the need for FSOC’s nonbank designation authority ([see FSM Report SIFI36](#)); Secretary Yellen said that nonbanks may pose significant spillover risks and that they should therefore have higher capital and liquidity standards. Ranking Member Scott argued that the lack of cost-benefit analysis in systemic designation decisions renders the guidance “subjective” and makes corporate compliance uncertain; Ms. Yellen noted that the DFA does not require cost-benefit analysis for “good reason.” Reiterating Tuesday’s testimony, she again emphasized that FSOC has no preferred approach to designation.
- **Supervision:** Sen. Cortez-Masto (D-NV) asked how the agencies have altered their supervision and asked if agency efforts to improve bank supervision are actually happening; Ms. Yellen said she believed so.
- **Nonbank Mortgage Originators:** Raising concerns that nonbanks are gaining mortgage origination market share, Sen. Cortez-Masto also asked if the trend poses a financial-stability risk; the Secretary noted that their short-term financing is uncertain especially in the absence of discount-window access and robust capital, with failure possible under stress.
- **Crypto/DeFi Standards:** Chairman Brown asked Ms. Yellen to reiterate recommendations from a prior report seeking statutory change increasing the department’s AML and sanctions authority related to digital assets. Ms. Yellen if she believes Treasury’s AML/CFT tools should be updated for new digital assets. Highlighting his bipartisan [measure](#) targeting DeFi-related money laundering and sanctions evasion,

Sen. Warner (D-VA) asked Ms. Yellen if she believes this legislation is needed; Ms. Yellen supports the bill.

- **Bank Concentration:** Sen. Vance (R-OH) raised concerns that the public reports of JPM's acquisition of FRC vastly overstated the spread between the largest and next bids; Ms. Yellen said she did not see the bids, suggesting that this was a question for FDIC Chairman Gruenberg but noting that the FDIC is constrained by the least-cost test. Sen. Vance then went on to assert that the transaction demonstrates a lack of concern about banking concentration; Ms. Yellen only said she shared concerns about the need for a diverse banking system.
- **AI:** Raising concerns about AI-market manipulation and flagging his bipartisan [bill](#), Sen. Warner reiterated that FSOC should coordinate AI policy, asking if Congress should move quickly to address the issue; Ms. Yellen said the Administration would welcome a Congressional initiative, noting that FSOC is working hard to deepen its understanding of potential AI financial stability risks.
- **Discount Window:** Sen. Warner reiterated prior concerns ([see Client Report GSIB23](#)) about discount window stigma, arguing that discount window usage should potentially be mandatory; Ms. Yellen emphatically agreed that banks should be better prepared to use the discount window, noting that she would not be surprised to see new initiatives in this area. As noted, Acting Comptroller Hsu [announced](#) these along with additional new liquidity proposals.
- **SAR Surveillance:** Reiterating GOP [concerns](#), Sen. Hagerty (R-TN) sharply criticized FinCEN for what he said was surveilling Americans' transactions based on religious and political affiliation; Ms. Yellen said the issue would be "thoroughly investigated," noting the incident was before her time as Treasury Secretary.