



FedFin Weekly Alert

Monday, March 18, 2024

❑ ANSWERED PRAYERS?

Banks have been asking regulators for years – decades? – to update 1995 merger guidance. So the banking agencies are beginning to do, but not exactly as banks would have liked to see it done. Although Sen. Warren (D-MA) [thinks](#) the OCC's proposed merger policy is too soft, our analysis ([see FSM Report MERGER14](#)) and that of many others finds it a formidable barrier to all but the simplest, smallest transactions. Now comes the FDIC. As the schedule below makes clear, it plans on Thursday to issue a proposal based on its 2021 RFI ([see FSM Report MERGER9](#)). We doubt any bank-merger policy influenced as strongly by CFPB Director Chopra will be a bank merger policy banks will like any better than the OCC's, although some compromises may have to be made if Republican members of the FDIC board are willing to contemplate at least some of what Mr. Chopra, surely seconded by Chair Gruenberg, wants done.

Will the Fed follow suit? We doubt it based on Chair Powell's answer at a recent hearing ([see Client Report FEDERALRESERVE75](#)) that was at best noncommittal about the need for new policy. Mr. Powell plans to do what the Fed wants with mergers, knowing well that any big ones it wants still face a gauntlet at the Department of Justice. This is clear from the new DOJ/FTC policy ([see FSM Report MERGER13](#)). And, even if it weren't, we expect Assistant AG Kanter to do so later next week. As always, watch your email – alerts and in-depth analyses will head your way ASAP.

Headlines From the Past Week's Daily Briefings

March 11

- **Hagerty Demands Signature-Asset Sale Answers ASAP** - Sen. Bill Hagerty (R-TN) sent a [letter](#) to Chair Gruenberg questioning the FDIC's adherence to requirements in its auction process during the sale of Signature Bank's loan portfolio, accusing the FDIC of making political choices inconsistent with its least-cost mandate.
- **Scott Again Calls for Gruenberg Resignation** - Adding to GOP pressure on FDIC Chair Gruenberg, Senate Banking Ranking Member Scott (R-SC) [sent](#) a letter [reiterating](#) his demand that Mr. Gruenberg step down.
- **BTFP Demise if FHLB Opportunity - [As anticipated](#)**, the BTFP window closed.

Federal Financial Analytics, Inc.
2101 L Street, N.W. – Suite 300, Washington, D.C. 20037
Phone (202) 589-0880
E-mail: info@fedfin.com www.fedfin.com

© 2024. Federal Financial Analytics, Inc. All rights reserved.

- **FDIC's Hill Wants New Blockchain, Liquidity Standards** - FDIC Vice Chair Hill [said](#) there are "significant downsides" to the agency's current approach to blockchain, describing its message and that of the inter-agency policy ([see Client Report CRYPTO32](#)) as "don't bother trying."
- **Warren Tries to Divide Powell from Other Regulators to Conquer Capital Regs** - Following her [grilling](#) of Chair Powell regarding his decision to intervene in setting the new capital rules, Sen. Warren (D-MA) sent a [letter](#) to Vice Chair Barr, Chair Gruenberg, and Acting Comptroller Hsu asking them if pressure from big banks has "weakened your resolve."
- **GAO Wants FinCEN to Move Better, Faster** - Reinforcing longstanding bank complaints about the current AML regime, GAO [published](#) a report finding that FinCEN needs to improve transparency surrounding its progress implementing the Anti-Money Laundering Act of 2020 ([see FSM Report AML132](#)).
- **Biden Presses for Statutory Change Boosting FHLB Affordable-Housing Contributions** - President Biden's FY25 [budget](#) proposes that Federal Home Loan Banks double their annual affordable-housing contribution.

March 12

- **Hsu Says Opsrisk Not Cured by Capital, Liquidity** - In remarks on [operational resilience](#), Acting Comptroller Hsu notes that operational risk is not "a problem that capital or liquidity can solve."
- **Senate Talk of Affordable Housing Turns to FHLB Role** - At the Senate Banking Committee affordable-housing [hearing](#), Chairman Brown (D-OH) [again](#) called for the Fed to cut interest rates to address the crisis.
- **CFPB to Proceed to Mortgage-Fee Rulemaking** - NEC Director Brainard [said](#) that the CFPB will pursue a rule or similar action to curtail mortgage-closing "junk" costs along the lines we identified following the Bureau's [post](#) in conjunction with the new White House competition [strike force](#).

March 13

- **HFSC GOP Slams CFPB Nonbank Payment Company Proposal** - As anticipated, the HFSC Digital Assets Subcommittee hearing on the CFPB's proposed standards for certain nonbank payment companies featured a strong GOP attack premised as much on the Bureau's work to date as on this proposal ([see FSM Report PAYMENT27](#)).

March 14

- **Bipartisan Senators See More ILC Charters** - Led by Sen. Romney (R-UT), bipartisan senators generally from states with large ILC presence or interest [urged](#) the agency to advance pending ILC charters and consider new ones.

- **Global Supervisors Target Mortgages, BNPL, Fintech as Top NBFIs Systemic Priorities** - An FSI [report](#) recommends a holistic approach to regulating NBFIs retail lenders, urging a policy mix increasing NBFIs oversight.
- **New Open-Standard-Setting for Open-Banking Set for Stringent Eligibility Standards** – CFPB Director Chopra now [states](#) that the open-banking regulation regarding consumer data rights ([see FSM Report DATA4](#)) will be finalized in the fall, with proposed new standards for standard-setters released ahead of time so that the final rule addresses both issues.

[March 15](#)

- **Effective Date for Late-Fee Ban Set for May** - Publication in the *Federal Register* [sets](#) the effective date for the CFPB credit-card late fee regulation ([see FSM Report CREDITCARD37](#)) as May 14, 2024.
- **Vance Goes for Nuclear Financial-Market Option vs. China** - Sen. Vance (R-OH) has [introduced](#) S. 3945, a bill to ban China and entities it governs from U.S. capital, bond, and financial markets if Treasury determines that it has engaged in sovereign-debt restructuring in violation of global law and financial-market practice.

This Week

Monday, March 18

HFSC Subcommittee on Oversight and Investigations Field Hearing entitled: “Victims of Regulatory Overreach: How the SEC’s Climate Disclosure Rule Will Harm Americans.” [10:00 am, webcast]. Witnesses: **Ms. Whitney Hermandorfer**, Director of Strategic Litigation Unit, Office of Tennessee Attorney General; **Ms. Renea Jones**, Co-Owner, Jones & Church Farms, Inc.; and **Professor Alex Scott**, Associate Professor of Supply Chain Management, University of Tennessee, Knoxville.

Wednesday, March 20

HFSC Subcommittee on Capital Markets Hearing entitled: “SEC Overreach: Examining the Need for Reform.” [10:00 am, 2128 RHOB]. Witnesses: TBD.

Treasury's Federal Advisory Committee on Insurance Open Meeting. [1:30, webcast]. Matters to be discussed: climate-related financial risk and the insurance sector; cyber insurance developments and international insurance issues. The FACI will also receive status updates from each of its subcommittees and from FIO.

HFSC Subcommittee on Housing and Insurance Hearing entitled: “The Characteristics and Challenges of Today’s Homebuyers.” [2:00 pm, 2128 RHOB]. Witnesses: TBD.

Thursday, March 21

Federal Financial Analytics, Inc.
2101 L Street, N.W. – Suite 300, Washington, D.C. 20037
Phone (202) 589-0880
E-mail: info@fedfin.com www.fedfin.com

FDIC Open Meeting. [10:00 am, webcast]. Matters to be discussed: Proposed Statement of Policy on Bank Merger Transactions.

HFSC Hearing entitled: "Importing Global Governance: Examining the Dangers of Ceding Authority Over American Financial Regulation." [10:00 am, 2128 RHOB]. Witnesses: TBD.

Future Events of Note

Tuesday, April 9

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

Wednesday, April 10

HFSC Hearing about the SEC's climate disclosure rule. [TBD].

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-031524](#)**: If it wasn't clear before that the CFPB's [blog post](#) targeting "junk" mortgage fees meant business, NEC Director Brainard's [comments](#) endorsing it brought this on home.
- **[CREDITCARD37](#)**: Following a very controversial proposal, the CFPB has finalized credit-card late-fee restrictions in a final rule that does not differ significantly from the proposal on its key point: elimination of the manner in which inflation adjustments are now made by credit-card lenders when it comes to late fees.
- **[GSE-031224](#)**: The President's [FY25 budget](#) picks up FHFA's [recommendations](#), calling for statutory change to double the System's affordable-housing commitment.
- **[FEDERALRESERVE75](#)**: As [expected](#), Republicans took turns grilling Chair Powell on the Basel III endgame proposal and calling for its withdrawal, and were likely pleased with the results.
- **[CONSUMER56](#)**: The CFPB has issued a circular essentially banning digital and perhaps all other consumer-finance comparison-shopping and lead-generation tools for credit cards and other products not covered by prior orders.

- **[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.