



FedFin Weekly Alert

Monday, April 15, 2024

❑ THE CFPB STAND-OFF

On Tuesday, the HFSC Financial Institutions Subcommittee holds yet another hearing which Republicans hope will so embarrass the CFPB that their decades-long quest to redesign or even kill it gains traction ahead of critical litigation and the national election. The nominal topic of the hearing is the Bureau's financial audit, and Republicans will surely make as much of it as they can to damage Director Chopra's leadership. However, the real target is the Bureau's race to finalize a series of substantive actions ahead of its own political challenges should litigation and the election go against it. The most immediate rule on the GOP's firing line is the credit-card late-fee standard ([see FSM Report CREDITCARD37](#)), a rule now enmeshed in court decisions and challenges of unprecedented intricacy that nonetheless appear likely leading to a near-term injunction blocking the rule as lenders devoutly desire.

The hearing is also clearly set to tackle not just CFPB actions taken, but also those Republicans and lenders fear are yet to come. The most immediate of these is a rumored attempt to reinstate the Bureau's mandatory-arbitration [ban](#), but other proposals set for discussion also address nonbank payment-services providers ([see FSM Report PAYMENT27](#)) and mortgage fees and lender [title insurance](#). As always, Democrats will ride to the Bureau's defense on most – but far from all – of these actions, making this hearing surely another in a long series of partisan exchanges about who cares most about consumer welfare. And, as always, nothing will come of GOP objections even if some manage to squeak by the Senate because President Biden stands ready with his veto pen. Still, a tough hearing exacerbates the Bureau's political risk and, in a sea of political uncertainties, that can have significant consequence. As a result, we'll be watching and writing as soon as the scope of the hearing and its impact are clear.

Headlines From the Past Week's Daily Briefings

April 8

- **Schumer Weighs In Against CapOne/Discover Deal** - Senate Majority Leader Schumer (D-NY) made it clear that the Capital One/Discover merger faces an unusually high hurdle: strong opposition with the power to pack even more of a political punch than [concerns](#) voiced so far by progressive [Democrats](#).
- **Treasury IMF Presses for Bank Insurance, Pension, Bond-Fund Rules Restricting Private-Credit Interconnection** - The [IMF continued](#) its pressure on private credit,

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

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finding that the sector clocked in last year at \$2.1 trillion with three quarters of this in the U.S. and soon to eclipse syndicated lending and high-yield bonds.

- **GOP Introduces CRA Resolutions Challenging Climate-Risk Rules** - Splitting the issue among various GOP sponsors, GOP members have introduced Congressional Review Act resolutions to overturn climate-risk rules finalized by the OCC ([H.J. Res 124](#) by Rep. Donalds [R-FL] et al.), the FRB ([H.J. Res 125](#) by Rep. Fitzgerald [R-WI] et al.), and FDIC ([H.J. Res 126](#) by Rep. Houchin [R-IN] et al.).
- **CFPB Criticizes Credit Report Inaccuracies for Victims of Human Trafficking, Identity Theft** - A CFPB [report](#) criticized furnishers for providing false or fraudulent information to consumer reporting companies and accused consumer reporting agencies of failing to ensure the accuracy of credit reports related to victims of human trafficking and identity theft, finding significant non-compliance with its 2022 [rule](#) requiring reporting companies to block adverse information.
- **FRB-NY Finds that Brokers with BHCs are Better, But Are They?** - The Federal Reserve Bank of New York's blog [posted](#) a brief about a May 2021 study concluding that broker-dealers affiliated with BHCs had better liquidity thanks to the parent company during the great financial crisis and thus took greater risk than like-kind, unaffiliated broker-dealers.

[April 9](#)

- **Senate GOP Tackles Card Fees** - Joined by GOP Senators from credit-card domiciles, Senate Banking Ranking Member Scott (R-SC) led the expected Republican resolution overturning the CFPB's credit-card late fee rule ([see FSM Report CREDITCARD37](#)).
- **Warren Starts Bargaining for Crypto-AML Standards** - Throwing another wrinkle into the careworn face of efforts to pass stablecoin legislation, Sen. Warren (D-MA) sent a [letter](#) to Reps. McHenry (R-NC) and Waters (D-CA) arguing that their ongoing and apparently-hopeful efforts to craft stablecoin legislation may inadvertently amplify risk.

[April 10](#)

- **OCC Merger Deadline Extended, De Facto Policy Remains** - Responding to industry requests, the OCC [extended](#) the comment deadline on its merger proposal ([see FSM Report MERGER14](#)) until June 15 from April 15.
- **Gruenberg Defends FDIC GSIB-Resolution Readiness** - Rejecting criticism from its own [inspector-general](#) and others including [Karen Petrou](#), FDIC Chair Gruenberg [stated](#) that the agency is indeed ready to resolve a U.S. GSIB and that any such resolution will exert market discipline on shareholders and BHC counterparties.
- **Hsu Presses Banks to Expand Account Access for Immigrants** - Focusing on increasing banking access for immigrants, Acting Comptroller Hsu [told](#) banks to consider risk-based adjustments to their account screening processes to accept more forms of identification for account openings such as municipal IDs and consular ID cards.

April 11

- **Bipartisan Bill Seeks Barriers to Financial-Infrastructure Ransom Payments** - Ahead of the HFSC hearing, Chair McHenry (R-NC) and Rep. Pettersen (D-CO) introduced the Ransomware and Financial Stability Act, a bill to require FMUs, large securities exchanges, and certain technology-service providers to notify Treasury before paying a ransom and come under numerous restrictions should they do so.
- **Waters Plans FHLB-Reform Legislation** - Sharply criticizing FHLB backstops for troubled banks, HFSC Ranking Member Waters (D-CA) [stated](#) that she is drafting legislation to implement a number of the Congressional recommendations outlined in FHFA's recent FHLB-reform [report](#), including readying a bill to double the FHLB system's required contributions to affordable housing and prevent the banks from making good as banks go bad.

April 12

- **Barr, Tillis Warn CFPB Against Mandatory-Arbitration Ban** - HFSC Financial Institutions Chair Barr (R-KY) and Sen. Tillis (R-NC) sent a [letter](#) to the CFPB threatening to invoke the Congressional Review Act to overturn any newly-proposed mandatory-arbitration ban from the CFPB, warning that it would violate the CRA.
- **IOSCO Adds CD, AI Workstreams to Revised Work Plan** - IOSCO [announced](#) revisions to its 2024 work plan, adding new workstreams to address opacity and illiquidity in the single-name CDS market as well as the integrity, financial stability and investor protection associated with AI along with monitoring financial-asset tokenization.

This Week

Tuesday, April 16

Senate HFSC Subcommittee on National Security, Illicit Finance, and International Financial Institutions Hearing entitled: "Held for Ransom: How Ransomware Endangers Our Financial System." [10:00 am, 2128 RHOB]. Witnesses: **Ms. Jacqueline Burns Koven**, Head of Cyber Threat Intelligence, Chainalysis; **Mr. Daniel Sergile**, Senior Consulting Director, Unit 42 by Palo Alto Networks; and **Ms. Megan Stifel**, Chief Strategy Officer, Institute for Security and Technology.

Senate Banking Subcommittee on Housing, Transportation, and Community Development Field Hearing entitled: "Challenges in Preserving the U.S. Housing Stock." [10:00 am, Dirksen Senate Office Building 538]. Witnesses: **Mr. Jesse Ergott**, President and CEO, NeighborWorks Northeastern Pennsylvania; and **Ms. Robin Davey Wolff**, Senior Director, Rural Communities, Enterprise Community Partners.

HFSC Subcommittee on Financial Institutions and Monetary Policy Hearing entitled: "Agency Audit: Reviewing CFPB Financial Reporting & Transparency." [2:00 pm, 2128 RHOB]. Witnesses: **Alicia Puente Cackley**, Director, Financial Markets and Community Investment, U.S. Government Accountability Office; and **Baird Webel**, Specialist in Financial Economics and Acting Research Manager for Executive Branch Operations.

Wednesday, April 17

HFSC Markup. [TBD].

Thursday, April 18

Senate Banking Hearing entitled: "Oversight of Federal Housing Regulators." [10:00 am, Dirksen Senate Office Building 538]. Witnesses: **The Honorable Adrienne Todman**, Acting Secretary, Department of Housing and Urban Development; and **The Honorable Sandra Thompson**, Director, Federal Housing Finance Agency.

Future Events of Note

Wednesday, April 24

FTC Informal Junk Fee Hearing. [10:00 am, webcast]. Witnesses: 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](#).

- **RESOLVE51**: In its first public statement since 2013 about how it would execute an SPOE resolution (see [FSM Report RESOLVE23](#)), the FDIC yesterday released a [report](#) Chair Gruenberg [described](#) as demonstrating the FDIC's readiness to resolve a U.S. GSIB and the process it has developed for doing so under the orderly liquidation authority (OLA) provided in the Dodd-Frank Act (see [FSM Report SYSTEMIC30](#)).
- **GSE-041024**: *Bloomberg today* reports that the CFPB may simply ban consumer payment for lender title insurance.
- **AML137**: Senate Banking Committee's Hearing with Deputy Secretary Adeyemo reviewed the Administration's request for additional digital asset AML/CFT authority.
- **GSE-040824**: It wasn't hard for us to forecast that, after NEC Director Brainard [endorsed](#) CFPB Director Chopra's jihad against mortgage "junk fees," that the discount points that received particular opprobrium would be moved up the priority ladder for federal restriction.
- **GSE-032924**: Following FSOC's fulminations about [nonbank mortgage companies](#), FHFA in 2023 heightened its supervisory standards mandating GSE prudential governance of eligible seller

servicers.

- **[MERGER15](#)**: Following its 2022 request for input, the FDIC has released a formal proposal that would redefine the agency's bank-merger policy into one that will make it difficult for all but the smallest and simplest transactions within its jurisdiction to have the clear prospects for approval usually necessary in non-emergency transactions, subjecting other M&A applications to protracted review with a high likelihood of denial.
- **[REFORM231](#)**: Today's HFSC hearing on global governance featured [expected](#) Republican attacks on what they called the opaque nature of U.S. interactions with international organizations, with Chairman McHenry (R-NC) promoting a draft bill requiring regulators to report dealings with global standard-setting groups to Congress.
- **[GSIB24](#)**: Reflecting concerns expressed about banks that window-dress key regulatory data as the post-crisis framework took shape, the Basel Committee has now issued a request for views on how to prevent this when it comes to GSIB calculations related to their surcharge or possible designation.
- **[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.