



FedFin Weekly Alert

Monday, April 22, 2024

❑ THE RUN TO LIQUIDITY REGULATION

There were early-warning tremors last week signaling that new liquidity rules are coming, with the *Wall Street Journal* on Friday [forecasting](#) an inter-agency proposal in what we expect to be early May. But, while a liquidity rewrite has been obvious since at least Acting Comptroller Hsu's [preview](#) in January, what the proposal will detail is far from clear. Although Mr. Hsu and Vice Chair Barr are [signaling](#) structural change to the current liquidity construct, FRB Gov. Bowman [insists](#) that supervisory – not regulatory – standards should ensure that banks are resilient in the face of liquidity stress. The only area where she appears to agree with Messrs. Hsu and Barr pertains to discount-window lending. All of the agencies appear lined up to take last year's inter-agency [guidance](#) on discount-window readiness and turn it into a rule that mandates actual preparation by all IDIs – and possibly – but far from certainly – including prepositioning collateral assets. The proposal is likely also to address collateral integrity to limit the risk to the Federal Reserve and, indeed, a troubled bank if assets are pledged to Home Loan Banks but urgently needed for the discount window. No word if the Fed also plans to address the FedWire closing times that made Signature's collateral problem even worse ([see Client Report REFORM222](#)), but don't wait up.

Headlines From the Past Week's Daily Briefings

[April 15](#)

- **Warren, Whitehouse Attack Chamber's CFPB Litigation** - Continuing their support of the CFPB's credit-card rule ([see FSM Report CREDITCARD37](#)), Sens. Warren (D-MA) and Whitehouse (D-RI) [took on](#) the Chamber of Commerce, writing to protest its "outrageous and unwarranted" legal challenge.
- **HFSC Set for Marathon, Partisan Mark-Up** - The HFSC [mark-up](#) will feature predictable partisan battles over an array of GOP resolutions to repeal the CFPB's credit-card rule ([see FSM Report CREDITCARD37](#)) and all of the banking-agency climate-risk standards (see Client Reports in the **CLIMATE** series).
- **Fed Paper: CBDC May Increase Run Risk, Digital Asset Stability** - A new Fed staff [paper](#) analyzes a CBDC's potential impact on financial stability, finding that CBDC introduction could cause a small increase in run risk, but could also improve financial stability in the digital asset space and enhance cross-border payments.

- **Does Supervision Make Banks Safer? FRB-NY: Probably** - Noting that the impact of bank supervision has received far less attention than that of regulation, the Federal Reserve Bank of New York's [blog](#) includes a post summarizing literature in this area, one that has of course taken on new importance in the wake of last year's failures and resulting agency self-assessment.
- **BIS Presses Tokenized Unified Ledger** - Building on prior work advocating for [unified ledgers](#) to achieve digital efficiencies without added risk, the BIS's General Manager Agustín Carstens and Infosys Chairman Nandan Nilekani [extended](#) prior analyses to tokenization.

April 16

- **House GOP Takes on New Merger Guidelines** - The House Small Business Committee sent a GOP [letter](#) to the FTC and Justice Department strongly protesting new merger guidelines ([see FSM Report MERGER13](#)) on grounds that they sharply curtail needed small-business capital.
- **House Hikes Iran Sanctions** - Working through a series of sanctions bills in the wake of recent geopolitical developments, the House voted 294-105 to advance [H.R. 5921](#), a bill introduced by Rep. Huizenga (R-MI) that prohibits Treasury from authorizing transactions by U.S. financial institutions in connection with Iranian imports or exports other than food, medicine, and other humanitarian assistance.
- **House Passes Bill Targeting China-Iran Petroleum Trade** - Continuing its response to recent geopolitical events, the House voted by a 383-11 margin to pass [H.R. 5923](#), a bill from Reps. Lawler (R-NY) and Gottheimer (D-NJ) that would require the President to periodically determine if any Chinese financial institutions have purchased petroleum or petroleum products from Iran, stating that U.S. financial institutions also may not open or maintain certain accounts with Chinese institutions that have done so.
- **Warren Again Targets OCC Merger Decisions** - Continuing recent [attacks](#) on the OCC's approach to mergers, Sens. Warren (D-MA) and Blumenthal (D-CT) sent a [letter](#) to Acting Comptroller Hsu sharply criticizing the agency's decision first to allow NYCB to acquire Flagstar bank and then do the same shortly thereafter for Signature.
- **OCC Toughens LCR, NSFR via New Reporting Requirements** - The OCC sought public comment as required by law for changes to the reporting required of large banks under both the LCR and NSFR.
- **CFPB Strengthens Its Nonbank Enforcement Toolkit** - Building on its 2022 standards expressly extending its supervisory reach to nonbanks ([see FSM Report CONSUMER41](#)), the CFPB [issued](#) final rules on which it also seeks comment that operationalize how the Bureau will target nonbanks.
- **CFPB Funding Again Comes Under GOP Attack** - The HFSC Financial Institutions Subcommittee hearing considered CFPB funding, a topic that elicited calls again from Subcommittee Chair Barr (R-KY) and other Republicans for the Supreme Court to rule that the current arrangement is unconstitutional.

April 17

- **Global Regulators Tackle NBFi Margining, Collateral Transformation** - As it has long [promised](#), the FSB [issued](#) a consultation on standards designed to buttress derivatives, commodity, and securities-financing markets under stress through more stringent margining and collateral requirements.
- **Basel Head Says Go Slow re AI Risk, Supervisory Models** - Basel's Secretary General, Pablo Hernández de Cos, [focused](#) on AI's risk-reward profile in the banking sector, concluding that it raises a series of profound questions global regulators must work cooperatively to address.
- **Lummis, Gillibrand Begin Senate Stablecoin Debate** - As long anticipated, Sens. Lummis (R-WY) and Gillibrand (D-NY) introduced a significantly revised version of their 2022 Bill ([see FSM Report CRYPTO28](#)) laying out U.S. stablecoin standards.
- **FIO Subpoena Power Faces Rollback** - At HFSC's mark-up, the committee began with Rep. Fitzgerald's (R-WI) Insurance Data Protection Act, H.R. 5335, which would repeal the Federal Insurance Office's authority to subpoena insurance companies for data collection.
- **HFSC Likely to Pass RegTech Bill** - At HFSC's extended mark-up, the committee turned to H.R. 7437, a bipartisan bill that would require federal banking regulators to regularly review and report to Congress on their use of technology to ensure they're equipped to address threats to the financial system.
- **HFSC Set to Pass AOCI Recognition, Systemic-Risk Designation Study Measures** - Continuing our coverage of the mark-up, HFSC was generally supportive of the two bills on the agenda from Democrats, H.R. 4206 from Rep. Sherman (D-CA) requiring large banks with available for sale securities to mark to market their real value, and H.R. 4116 from Rep. Green (D-TX) requiring the GAO and the relevant regulatory agencies to issue reports after invoking a systemic risk exception.
- **HFSC Partisan Fight Continues Over Earned Wage Access Bill** - HFSC also turned to H.R. 7428, Rep. Steil's (R-WI) controversial earned-wage access bill. Rep. Green (D-TX) stated that Rep. Steil's manager's amendment had "unintentional mistakes" and was unenforceable, resulting in the substitute being treated as a first-degree amendment.
- **McHenry Sandbox Bill Faces Anticipated Democratic Attack** - As the mark-up continued, HFSC turned to Chairman McHenry's Financial Services Innovation Act, H.R. 7440, allowing "sandboxes" for "innovative" financial products.
- **GOP Resolution Advances to Reject Card-Fee Reg** - As anticipated, HFSC has now turned to H.J. 122, the CRA resolution repealing the CFPB's credit-card fee standards ([see FSM Report CREDITCARD37](#)).

- **HFSC Advances GOP Efforts to Repeal SEC, Banking Climate Standards** - The HFSC mark-up also focused on GOP efforts to overturn climate standards from the SEC and banking agencies.
- **HFSC Expected to Advance Resolution Overturning FSOC's SIFI Designation Guidance** - Continuing HFSC's marathon mark-up, the committee now turned to H.J. Res. 120, the CRA resolution to overturn FSOC's guidance on nonbank financial company designation ([see FSM Report SIFI36](#)).

April 18

- **G7 Backs NBFIs Reform** - Although prioritizing Ukraine and broad statements about the global economy, the new [statement](#) from G7 finance ministers and central bankers also emphasizes the need to pursue the kind of NBFIs reforms advanced yesterday by the [FSB](#).
- **Bowman Battles New Liquidity Regs** - FRB Gov. Bowman [reiterated](#) her conviction that sufficient contingency funding should be a matter between banks and supervisors, not a cause for new rules.
- **Brown, Reed Press Big Banks on Wire Transfer Fraud** - Building on their longstanding campaign pressing banks on [Zelle](#), Senate Banking Chair Brown (D-OH) and Sen. Reed (D-RI) [sent letters](#) to the CEOs of JP Morgan, Wells Fargo, Bank of America, and Citi stating that banks have a responsibility to proactively monitor and prevent fraudulent wire transactions and should reimburse customers when these obligations are not met.
- **House Select Committee Targets Index-Fund Chinese Investments** - Building on its prior [report](#) pressing financial institutions to address exposures to China and potential systemic risks, the House Select Committee on the CCP released a bipartisan [report](#) sharply criticizing index-fund and asset managers for investing American savings in sanctioned Chinese companies associated with the PLA and/or human-rights abuses.

April 19

- **GAO Gives CFPB Clear Bill of Financial Health** - The GAO released the [report](#) initially scheduled for the Financial Institutions Subcommittee hearing earlier convened to discuss CFPB financial management.
- **Deadline Set for Comment on Controversial FDIC Merger Proposal** - The *Federal Register* sets the comment deadline on the FDIC's [request for comment](#) on its bank merger policy ([see FSM Report MERGER15](#)).
- **House Bill Revises Exam Appeal Process** - HFSC Vice Chair Hill (R-AR) and Rep. Scott (D-GA) introduced [H.R. 8071](#), a bill to create an FFIEC independent review officer for banks seeking review of supervisory judgements and require supervisors to respond more quickly to bank queries.

- **FDIC's Paperwork Request Illuminates Proposed Merger Policy** - In conjunction with the publication of the FDIC's proposed merger-policy rewrite ([see FSM Report MERGER15](#)) comes a proposed change in the [filings](#) that would need to accompany any merger application submitted to the FDIC.

This Week

Wednesday, April 24

FTC Informal Junk Fee Hearing. [10:00 am, webcast]. Witnesses: TBD.

Future Events of Note

Tuesday, April 30

CFPB Community Bank Advisory Council Meeting. [1:00 pm, webcast]. Matters to be discussed: the Unified Regulatory Agenda.

Thursday, May 9

CFPB and DOT Joint Hearing on Airline and Credit Card Rewards Programs.

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](#).

- **[MORTGAGE122](#)**: Although there was no need for further evidence that campaign season has begun, today's Senate Banking housing hearing surely confirmed it.
- **[GSE-041724](#)**: Just as the CFPB readies its assault on [cashout-refi discount fees](#) comes [FHFA's request](#) for views on a new Freddie Mac product that would give borrowers access to their locked-up equity without a new first lien at a higher rate or a traditional home-equity second riding piggyback atop the first lien.
- **[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.

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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- [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.