FedFin Daily Briefing

Monday, April 8, 2024

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. In a statement previewed in the Daily News and social media, Sen. Schumer urges consumers to oppose the merger on grounds that it will increase their credit cards' rates and fees. The statement also indicates that he sent a letter to the banks demanding greater transparency, complaining that the Majority Leader asked for more information from the banks but never heard back; the news article indicates that Capital One "welcomed" the inquiry, referencing the application now pending before federal regulators.

Treasury IMF Presses for Bank Insurance, Pension, Bond-Fund Rules Restricting Private-Credit Interconnection

The IMF continued its pressure on private credit, 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. Based on its assessment, the Fund recommends that regulators restrict exposures and concentrated positions, improve cross-sector and -border cooperation, and address growing retail bond-fund risk. Although the Fund's analysis observes economic benefits from new sources of long-term credit, it reiterates fears that the sector poses significant risks in part because valuations are "infrequent" credit risk is opaque, there are layers of "hidden leverage," and systemic risk may be building out of sight of both effective data-gathering and regulatory guardrails. The report details numerous sources of potential systemic risk due in part to the inter-connectivity between private credit and the banking sector and growing bank willingness to offer higher-risk loans with fewer covenants in order to remain competitive. The IMF also cites a recent FRB report noting that, while bank exposure to private credit is low in aggregate, there appear to be concentrated exposures at some institutions. Growing exposure by pension funds and especially life-insurance companies also poses heightened risk now and systemic risk should this become a still larger inter-connection, the Fund concludes, pointing also to the fact that neither pension nor insurance regulation buffers credit risk. The IMF is also troubled by the growing amount of private credit in retail-facing bond funds which it fears poses liquidity risk akin to that experienced in 2020.

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.). Even if these resolutions advance in the House, they will not pass the Senate and also face certain Presidential veto.

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. The report also accuses reporting companies and furnishers of not resolving disputes, failing to remove information related to identity theft, and providing information furnishers knew to be false. The CFPB notes that reporting companies and furnishers are taking corrective actions, stating that agency examiners have directed consumer reporting companies to revise compliance processes to ensure they block human-trafficking-related data.

FRB-NY Finds that Brokers with BHCs are Better, But Are They?

The Federal Reserve Bank of New York's blog today 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. The analysis is complicated by the bankruptcy of Lehman Brothers, the sale of Bear Stearns and Merrill Lynch and the rapid conversion of Goldman Sachs and Morgan Stanley into BHCs, but the study uses confidential data from the SEC and FINRA to reach its conclusions. These argue that these data combined with its methodology adjusts for these shocks. If it does, then the findings' greater liquidity appears persuasive as do those demonstrating greater risk-taking by BHC-affiliated entities during the crisis period. The paper appears to view its conclusions as justification for the BHC structure as a resilient parent-company construct for all broker-dealers, but the liquidity support it cites from the BHC actually is found to come from the use of the lender-of-last-resort powers. These are attributed in the study to the BHC, but they actually reside only with an insured depository. The paper thus could be read as demonstrating the TBTF nature even of nonbank affiliates and resulting moral hazard.

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-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.

- **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.

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