FedFin Daily Briefing

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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. We doubt this will change the Chamber's mind, with the Senators stating that the rule is clearly consistent with Congress's intent and asserting that the Chamber is not representing its members, just big banks. An answer is due by April 29.

HFSC Set for Marathon, Partisan Mark-Up

Wednesday's 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). CRA resolutions are all likely to be reported by slim margins and then face serious challenges finding floor time and enough Democratic votes to secure passage. As we noted, the resolutions are nonetheless likely dead in the Senate and, if not, set for certain Presidential veto. Other bills set for mark-up include GOP bills to limit the CFPB's authority (H.R. 5535) and force bank regulators to allow additional technological and fintech innovation (H.R. 7440). Considerable time will be spent on H.R. 7428, creating a new regulatory framework for earned-wage payment programs. Two bills from Democrats are likely to pass with wide bipartisan margins. The first, H.R. 4206 from Rep. Sherman (D-CA) mandates capital recognition of AOCI adjustments; the second (H.R. 4116) from Rep. Green (D-TX) requires GAO studies following a systemic-risk designation to avert failure and a review of the FDIC's least-cost test.

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. The paper considers two negative scenarios in which a CBDC increases the financial sector's run risk and reduces the ability of banks to extend credit and a third, positive scenario in which CBDC serves as a broadly-available and safe asset enhancing liquidity. The scenarios show that a CBDC may result in faster runs which could reduce the scope and opportunity for policy intervention, noting that prime MMFs may face particularly acute run risk. In a stress scenario where CBDC leads to deposit withdrawal, banks may turn to less stable sources of liquidity, which could increase borrowing costs by 50 to 250 basis points, increasing systemic run risk. The report also considers a number of policy risk-mitigation tools including quantity limits on CBDC holdings and payments of interest, with remuneration posing significant policy-implementation challenges. The digital asset financial stability point derives from concluding that stablecoins would be better able to manage runs with direct access to a digital central bank liability.

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 today 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. According to this post, literature does a poor job correlating supervision with risk management because troubled banks receive so much more supervisory attention. The quality of such attention, bank responsiveness, and resulting risk mitigation are demonstrated, but broader conclusions about supervision in general are challenging at best. Where reduced risk is found as a result of supervision for whatever reason, growth is not found to have been impaired and supervision has a neutral to positive effect on profitability. There are mixed results when looking at lending – it is clear that higher-risk lending abates under intensive supervision, but less clear if overall bank lending also drops. Extrapolating these literature findings to 2023, the post concludes that troubled banks under appropriately intense supervision would likely have grown less quickly and done less lending. Whether they would still have failed is not made clear.

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 today extended prior analyses to tokenization. The unified ledger is said to increase the efficiency and reliability of the financial system by combining all of a financial transaction's components into a single venue, with assets existing on the ledgers as executable objects allowing them to be moved without external verification. Tokenization advances this, they say, by simplifying the mechanism for trading assets while also allowing for complex pre-programmed and contingent asset transfers not feasible without tokenization. Tokenization is also said to create new financial products by providing greater composability, with the distinction between regulated and unregulated assets and attested and unattested assets key to designing a regulatory framework that leverages tokenization's benefits and mitigates its risks.

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.

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