FedFin Daily Briefing

Thursday, April 25, 2024

FSB Tackles CCP Resolvability

Continuing its NBFI work, the FSB today released final CCP-resolution standards. The standards call on systemic-CCP regulators to have tools and backstops specific to orderly resolution in addition to those deployed to ensure rapid recovery under the FSB's recent actions addressing margining and CCP liquidity. These resolution resources should ensure still more liquidity via TLAC and provide for ready CCP recapitalization. Several CCPs are now regulated in the U.S. as financial-market utilities by either the CFTC or SEC, but neither agency has issued express resolution standards or determined how backstops might be created. Although CCPs have been covered in recent FSOC annual reports (see *Client Report* **FSOC29**), ensuring ready resolution is not a priority and no action is known to be underway. It is possible that FSOC and primary regulators expect OLA to be deployed in the event of a systemic CCP shock, but the FDIC remains unable clearly to use it even for the largest banks on which prior planning has been undertaken (see *Client Report* **RESOLVE51**).

FDIC Considers, Tables Passivity Proposals

As anticipated, the FDIC today took up proposals to address concerns regarding index-fund managers' compliance with passivity commitments. Surprisingly, there were two competing proposals, both of which were withdrawn prior to a vote. Director McKernan's proposal would monitor compliance with passivity agreements beyond self-certifications, requiring the FDIC's Director of the Division of Risk Management Supervision to submit a plan for review and approval to monitor compliance. Mr. McKernan defended his proposal as an enforcement of current law, not new law. The Chopra proposal developed by FDIC staff would give the FDIC authority to determine change in bank control if a BHC's lead subsidiary is an FDIC-supervised bank. Mr. Chopra defended the NPR by expressing concerns that the FDIC's rules rely solely on the Federal Reserve for certain transactions, arguing that this is a violation of the FDIC's "statutory responsibility" and that the agency should be the lead reviewer when an FDIC-supervised bank is the primary asset of a BHC. Chair Gruenberg supported Director Chopra's proposal and Vice Chair Hill supported Director McKernan, but Acting Comptroller Hsu argued that interagency coordination is required to address the issue. He thus pressed for more cooperation between agencies instead of "creating more process for fragmentation," suggesting an RFI or ANPR on an inter-agency basis. Should this not occur, Mr. Hsu will reconsider his position on the issue if evidence shows that asset managers are not truly passive investors. The Board today also heard the semi-annual update on the DIF, with FDIC staff noting a four basis point increase from 1.11% to 1.15% in the reserve ratio from the last update. The FDIC will likely return the reserve ratio to its statutory minimum in 2026, proposing no assessment changes now.

BIS Head Suggests NBFIs Get a Targeted Global Standard-Setter

BIS General Manager Carstens this week said that there is insufficient global momentum to address the risks posed by NBFIs, asking international bank supervisors to consider the need for a committee akin to Basel for NBFIs. Mr. Carstens qualified this statement by noting it was meant to stimulate debate, also asking if more should be done to safeguard banks from their direct and indirect NBFI interconnections, here reflecting ongoing FSB work as well as a core FSOC systemic concern (see FSM Report **SYSTEMIC98**) and a banking-agency supervisory priority.

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.

- **SYSTEMIC99:** The latest Federal Reserve financial-stability assessment continues the Fed's practice of detailing vulnerabilities without drawing bottom-line conclusions; the Board once did so, but ceased this practice after opining that the financial system's risk was "moderate" shortly before the 2020 crash.
- **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.
- **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.

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