



Monday, May 6, 2024

OFR Mandates OTC-Repo Reporting

The Office of Financial Research today [adopted](#) a final rule requiring daily reporting by certain brokers, dealers, and financial companies with large exposures to the non-centrally cleared bilateral repo (NCCBR) market. The OFR adopted this after longstanding assessments from FSOC about risk in this sector ([see Client Report FSOC29](#)) believing that it enhances the transparency essential for U.S. agencies in monitoring financial stability risks. The rule sorts reporters with large NCCBR commitments into one category for securities brokers and dealers and another for financial companies with over \$1 billion in assets, with category two receiving an additional 120 days to comply with the rule which becomes effective on July 5, 2024.

Incentive-Comp Standards Take Halting Step Forward

[As anticipated](#), agencies favoring incentive-based compensation constraints today issued a new proposal advancing the standards mandated in the 2010 Dodd-Frank Act ([see FSM Report COMPENSATION30](#)). The [proposal](#) was issued by the FDIC on a divided [notational vote](#), OCC, and FHFA, with the NCUA said to shortly follow suit and the SEC to act on a proposal that presumably will track this one. The release by consenting agencies today is only a post for public comment and not also a planned *Federal Register* release because it would take concurrence also by the FRB to advance a rule the law says must come from all six agencies. FDIC Vice Chair Hill [protested](#) the proposal not only on these grounds, but also because he favors guidelines similar to the FDIC's 2011 principles ([see FSM Report COMPENSATION33](#)) rather than a reproposal of the inter-agency 2016 [draft rule](#). Notably, FRB Chair Powell supported the 2016 proposal when he was a governor in 2016, but he now does not believe a rulemaking is warranted in the absence of [clear evidence](#) of its need. Although the new NPR tracks the 2016 standard in substance, its preamble includes a detailed discussion of recent events updating the agencies' assertions about the links between compensation and prudential risk. The preamble also seeks comment on matters such as targeting, reducing the number of covered officers and employees, and requiring rather than just allowing large banks to claim prior compensation as redress for undue risk-taking.

The view that it takes all six agencies to issue a formal rulemaking backs up assertions that no agency can meet the Dodd-Frank requirement on its own. But, nothing in law prevents an agency from adopting standards akin to those agreed upon here after this inquiry as guidelines for the entities over which it has jurisdiction. Comments are due sixty days after publication in the *Federal Register*; an in-depth analysis of the questions posed for comment will shortly be provided.

NCUA on Board With Comp Proposal; Chopra Presses Hard for Action

The NCUA has now [joined](#) the other agencies that today asked for comment on the incentive-compensation [proposal](#). As we noted, the proposal issued by the FDIC, OCC, and FHFA earlier today reissues the agencies' 2016 [draft rule](#) with a preamble that updates the agencies' views about the links between compensation and prudential risk. The proposal also poses questions for comment on targeting, reducing the number of covered officers and employees, and requiring large banks to claim prior compensation to rectify undue risk-taking. CFPB Director Chopra today also [joined](#) FDIC Chair Gruenberg in strongly [supporting](#) the proposal, implicitly rebutting Vice Chair Hill's and FRB Chair Powell's [opposition](#) to a formal rulemaking. We will shortly provide an in-depth analysis of the NPR's questions. Comment is due sixty days after publication in the *Federal Register*, with the NCUA today joining the issuing agencies in

saying that they will also take action in the near future. What that is is not made clear, but it could mean freestanding guidance or other actions from the agencies supporting this proposal.

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](#).

- **MERGER16:** At today's HFSC Financial Institutions Subcommittee hearing on bank mergers, Democrats said that larger mergers pose numerous risks while Republicans criticized the application-and-approval process as opaque and time-consuming.
- **GSE-043024:** In conjunction with releasing its new [fair-housing rule](#), FHFA yesterday also [created](#) a new office of "Public Interest Examination."
- **ASSETMANAGEMENT8:** As we [noted](#), the FDIC board late last week faced the unusual and perhaps unprecedented situation of a staff resolution supported by its Chair and one Democratic Director that was countered by a different proposal from Republican Directors, with both options finally tabled due to objections from the Acting Comptroller.
- **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.