



**Monday, January 13, 2025**

## **CFPB Advances EFTA Rewrite, Consumer-Privacy Inquiries**

Continuing Director Chopra's final regulatory [push](#), the CFPB has published an [RFI](#) and an [interpretive rule](#) examining how companies collect and use consumer financial data and expanding EFTA's reach to digital payments and crypto assets. Noting that nonbank payment platforms often collect unnecessary consumer data, the RFI requests comment on the effectiveness of existing regulations such as the Gramm-Leach-Bliley Act's privacy notices and opt-outs. Warning that these opt-outs are underutilized by consumers and may be insufficient to protect against modern data surveillance, the Bureau also requests input on new regulatory options by April 11, a date by which Mr. Chopra will of course no longer drive what is done with what are sure to be many, often-conflicting comments. The proposed interpretive rule would lay out a framework determining when EFTA protections apply to digital payment instruments, including crypto assets and stablecoins. With the Bureau citing competitive-equity benefits for banks, the change would hold crypto and gaming companies responsible for consumer losses due to fraud, giving consumers a right to dispute transactions, with comments requested by March 31, 2025. We will shortly provide clients with in-depth analyses of both the RFI and interpretive proposal even though we expect the new, crypto-friendly Administration to oppose most of the crypto-related ruling.

## **Treasury Small Business Financing Report Recommends Uniform Disclosures, Expanded Capital Access**

The Treasury Department on Friday [published](#) a brief on the state of small business financing, recommending that policymakers engage with industry stakeholders on the need for additional small business financing, discuss how to expand access, and conduct research to determine if small business capital providers would benefit from more uniform product disclosures including APR and fees. Treasury also recommends that government agencies develop coordinated resources for small business owners. Regulators are asked to coordinate their approach to emerging technologies such as AI and promote consistent, robust standards for deploying new technology. The brief recommends that lenders and securitizers consider voluntarily developing uniform disclosures and leverage government small-businesses capital access.

## **IMF Adds Corporate-Default Risk to Private-Credit Fears**

Expanding prior private-credit [findings](#), the IMF today released a [paper](#) finding that the increasing role of nonbanks in corporate credit may threaten financial stability. Noting that nonbanks have increased their exposure to riskier firms such as zombie and nontradable firms since the GFC, the paper considers an adverse macroeconomic scenario of higher interest rates and negative demand shocks, finding it would lead to a rapid and large-scale increase in corporate defaults and financial instability. The global share of distressed firms has increased since the pandemic, there has been only a slight rise in default rates due in part to extend-and-pretend. This may pressure bank capital buffers, particularly in EMEs. With private credit's rapid growth, the report also notes the interconnectedness of private creditors and NBFIs and of the entire financial system as a key emerging risk, encouraging authorities to take a more proactive regulatory and supervisory approach. As [noted](#) last week, FRB Gov. Lisa Cook also calls for action along these lines in the U.S. The paper also calls for authorities to extend the regulatory perimeter to include nonbanks, holding them to bank-like standards also urging action to address shortcomings in insolvency and restructuring regimes and improve crisis preparedness.

## Initial House Spending Cuts Include OLA, Leave IOR As Is

Included in last week's [list](#) of potential spending offsets [reportedly](#) circulated by House Budget Committee Chair Arrington (R-TX) was a proposal to repeal the orderly liquidation authority. The document estimates that repealing OLA would create \$22 billion in savings, although it does not show how this number was reached. Prior efforts to end OLA [ended](#) during the first Trump Administration when Treasury opposed it. Despite renewed [interest](#) in banning the payment of interest on reserves and capturing Fed [income](#), neither proposal appears in the list of cuts that could offset tax cuts. Much else in the list is highly controversial and significant changes to it are certain.

## CFPB Tackles Debanking, Contractual Rights

Issuing a proposal sure to appeal to both progressives and populists, the CFPB today [issued](#) a draft rule to ban "fine-print" contractual terms that limit what the Bureau considers to be essential personal freedoms and Constitutional rights. Targeted contractual provisions include mandatory opt-outs from otherwise-applicable state or federal law, suppressing speech related to matters such as political views and negative reviews, unilateral contractual update rights, and certain foreclosure practices. On initial review, the proposal appears not to touch on mandatory-arbitration clauses nor on a bank's ability to close accounts if SARs are filed or certain other concerns arise. We will shortly provide clients with an in-depth analysis of the proposal; comments on it are due by April 1.

## Warren Presses Trump HUD Nominee on FHA Agenda

Ahead of HUD Secretary-Designate Scott Turner's nomination [hearing](#) before the Senate Banking Committee on Thursday, Ranking Member Warren (D-MA) today released a [letter](#) containing 75 questions. One among them asks Mr. Turner if he supports Project 2025's agenda for the FHA, particularly its call to increase mortgage insurance premiums for any mortgage with a term longer than twenty years even though the Mutual Mortgage Insurance Fund's capital ratio is more than five times the statutory requirement and if he supports restricting FHA insurance only to first-time homeowners. FedFin will provide clients with an analysis of the nomination hearing shortly after its completion.

## Fed Study Blesses Market-Risk Capital Thanks to Uncertain Methodology

A new Fed [study](#) tackles Basel's controversial market-risk rules, an issue of particular concern to FDIC Vice Chair Hill as he reviewed the pending U.S. [capital proposal](#). The study evaluates capital adequacy at the largest U.S. banks during the 2020 crisis, concluding that the market-risk capital standards enhanced bank resilience and financial stability because they encourage market-making at the expense of trading. We would note that the shift away from proprietary trading may have at least as much to do with the Volcker Amendment as with the market-risk rules, especially since many of the twenty-one banks evaluated in this study have only limited activities subject to the market-risk capital rules and are exempt from market-shock stress testing. It is also most unclear if conclusions about one approach to trading-book capital apply to the very significant changes now under consideration ([see FSM Report CAPITAL233](#)).

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### Recent Files Available for Downloading

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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](http://www.fedfin.com) or clients may obtain the reports/analyses by e-mailing [info@fedfin.com](mailto:info@fedfin.com) giving the requested item name, firm, and e-mail address. To learn more about *GSE Activity Reports*, click [here](#).

- [GSE-010725](#): As we [noted](#) on Friday, the Biden Administration has laid out a path to ending the GSE conservatorships we think the Trump Administration will take on.
- [GSE-010325](#): As noted earlier today, the Biden Treasury and FHFA [late yesterday](#) laid out a road to end the GSE conservatorships without naming the destination and saying only that it might well take past 2028 to get there.
- [CREDITCARD39](#): Using one of its quasi-rulemaking edicts, the CFPB has issued a circular laying out significant penalties if credit-card issuers do not meet Bureau standards related to disclosing, issuing, valuing, and redeeming reward points and, it appears, other benefits associated with credit cards such as merchant discounts.
- [AI7](#): In this report, we review key conclusions of the HFSC bipartisan AI [report](#) released late Tuesday.
- [GSE-121624](#): Markets are getting very excited by ongoing Trump transition rhetoric about [GSE privatization](#) and a Friday CBO [study](#) refining its 2020 [scenarios](#) to conclude that release-and-recapitalization could proceed more quickly and prove less costly than four years ago suggested.
- [PAYMENT35](#): Continuing its efforts to advance controversial actions before the end of the Biden Administration, the CFPB has finalized proposed supervisory standards for large nonbank providers of general-use digital-payment-platform services.
- [MERGER21](#): As promised, this post-election forecast looks at bank-merger policy, providing a cautionary note in response to the go-go, game-on forecasts for new mergers often touted by investment bankers.