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The Bankers' Bulletin

Regulatory & Enforcement Insights on ***Recent Bank Industry Developments***

This Month's Big Number:

68

The number of votes cast on June 17 by the U.S. Senate in favor of passing the GENIUS Act, demonstrating ample bipartisan support. The bill will establish a federal framework for payment stablecoin issuers once it is reconciled with a version circulating within the House.

In This Issue

1. **OCC and FDIC Grant Exemption on Collecting CIP Rule Information**
   - The order, issued with FinCEN's concurrence, gives banks supervised by the agencies an option to collect taxpayer identification numbers (TINs) from a third-party rather than from the customer.
   - This will meaningfully reduce friction during account opening and improve the experience for customers wary of identity theft. The banks' subsidiaries can also use the exemption in their business activities.

2. **Michelle Bowman Outlines Supervisory Reform Priorities as Vice Chair**
   - In her first speech as Vice Chair, Gov. Bowman identified several aspects of supervision she seeks to improve, including shifting focus back to core financial risks and deemphasizing box-checking.
   - Her speech suggested she plans to lead an effort to update and "simplify" many core banking regulations issued by the FRB—including Reg. O and Reg. W—reassessing their applicability and standards.

3. **OCC Issues Report Identifying Key Risks in the Federal Banking System**
   - With operational risk, especially cybersecurity, remaining a top-tier concern, the report encourages banks to regularly test business continuity and incident response plans for technology failure scenarios.
   - Compared to the Fall 2024 report, the section on consumer compliance omits references to fair and equitable product delivery and potential UDAAP risks, focusing instead on resolution of funds disputes.

4. **Federal Banking Agencies Seek Input on Actions to Reduce Payments Fraud**
   - The request for information (RFI) is a long overdue initial measure by the agencies to try to address an issue that members of bank C-suites regularly list among the top compliance risks facing their institutions.
   - On the whole, the RFI reveals that the agencies are still comprehending the scope of the problem and the impacts to their supervised institutions, rather than fine-tuning potential near-term solutions.

5. **OCC Rejects CSBS Request to Rescind Preemption Regulations**
   - The OCC's response to a Conference of State Bank Supervisors' request to rescind the agency's regulations signaled a clear intent from leadership to continue to vigorously defend federal preemption.
   - The letter brushed off the CSBS' attempt to label the regulations as anti-competitive and inconsistent with legal precedent, rebuffing CSBS' bases for repealing them under recent Executive Orders issued by Trump.

OCC and FDIC Grant Exemption on Collecting CIP Rule Information

Summary *On June 27, the OCC and the FDIC issued an order allowing their supervised institutions to collect a customer's taxpayer identification number (TIN) from a third-party rather than directly from the customer under the CIP Rule.*

Key Insights

1) The order's exemption permitting collection of the TIN—which is often a social security number for U.S. persons —from a third-party source aligns with a longstanding exemption in the Rule for credit card accounts.
2) The agencies reiterated that banks must assess the risks of using an alternative method of TIN collection, and will need to update their policies and procedures if they opt to use a new process to collect this piece of information.
3) The order was not joined by the FRB, so state member banks are not clearly exempted from the CIP Rule's requirement until the agency grants affirmative relief to its supervised institutions.

Takeaway **Findings on the evolving nature of financial services and the agencies' assessment of low money laundering risk spurred this major step forward in BSA modernization, which will facilitate bank-fintech partnerships.**

Michelle Bowman Outlines Supervisory Reform Priorities as Vice Chair

Summary *On June 6, Gov. Michelle Bowman outlined her priorities for reforming supervision and regulation in her first speech as the Federal Reserve's Vice Chair for Supervision, delivered at Georgetown University.*

Key Insights

1) Echoing prior comments by FDIC Acting Chair Hill, her speech advocated for a return of examiner focus on "material financial risks" and a de-emphasis on "procedural and documentation shortcomings."
2) She criticized the recent trend of pushing down large firm requirements onto smaller banks, and suggested key asset thresholds should be adjusted for inflation or growth—including the $10B asset line.
3) Bowman also speculated that the use of CAMELS ratings for smaller institutions could be adjusted during her tenure, speculating whether a different system could better measure financial health for community banks.

Takeaway **Gov. Bowman quickly turned her introductory speech into action, leading an interagency proposal to reform the large bank leverage ratio and announcing the removal of reputation risk from FRB supervisory materials.**

OCC Issues Report Identifying Key Risks in the Federal Banking System

Summary *On June 30, the OCC released its Semiannual Risk Perspective report for Spring 2025, highlighting the key issues facing the federal banking system. The report concluded the system remains sound.*

Key Insights

1) The report observes that geopolitical risks and uncertain economic conditions preclude a more definitive outlook, as risks from certain CRE segments and earnings projections for banks remain in flux.
2) The OCC highlights banks' increasing reliance on a concentrated group of third-party service providers as a critical threat due to the potential for widespread effects across the entire sector in the event of a disaster.
3) The agency strikes a cautiously optimistic tone towards services innovation and use of AI, pointedly noting the number of increasing use cases, but reminding banks of the potential model, cyber, and compliance risks.

Takeaway **The move towards digitalization emerges as a key theme in the report, as the OCC emphasizes the importance of banks' updating legacy tech architectures to adequately compete and reduce security risk.**

They Said It:

"[R]egulation should be efficient, striking an appropriate balance between costs and benefits. . . . Throughout the regulatory reform process, we intend to focus heavily on . . . ensuring that we find the optimal fulcrum for balancing the somewhat opposing forces of costs and benefits.

Michael Faulkender, Deputy U.S. Treasury Secretary,
describing the Trump Administration's guiding principles for Bank Secrecy Act modernization,
at the 62nd Bank Secrecy Act Advisory Group meeting (June 18, 2025)

Federal Banking Agencies Seek Input on Actions to Reduce Payments Fraud

Summary *On June 17, the FDIC, FRB and OCC issued a request for information (RFI) seeking industry input on how the agencies can mitigate fraud occurring through check, wire, ACH, and other forms of payment.*

Key Insights

1) The agencies invited public comment on several topics, including external collaboration, consumer, business, and industry education, and data collection. Comments must be submitted by Sept. 18.
2) The RFI demonstrates the agencies' willingness to take additional regulatory or supervisory actions to address the issue, which they acknowledge has increased exponentially in recent years.
3) Acknowledging the prevalence of complaints, the agencies express interest in a regulatory solution to improve banks' ability to resolve interbank disputes for liability for fraudulent checks, a frequent issue for small banks.

Takeaway **The RFI acknowledges the agencies are limited by existing authorities in engineering a solution to comprehensively reduce fraud, but encouragingly, show an openness to partnering with other stakeholders.**

OCC Rejects CSBS Request to Rescind Preemption Regulations

Summary *On June 9, the OCC issued a letter rejecting the Conference of State Bank Supervisors' (CSBS) recent request to the agency to rescind its preemption regulations, and reaffirming its commitment to the concept.*

Key Insights

1) The OCC's letter articulated the agency's position that its regulations, in place for several decades, are consistent with both Dodd-Frank and recent Supreme Court precedent on federal preemption.
2) The OCC rebuffed CSBS' attempt to take advantage of a recent Executive Order, which had directed agencies to repeal regulations that conflict with statute or case law, to prompt the paring back of these regulations.
3) The letter is another example of Acting Comptroller Hood fulfilling his pledge to use the authority of his temporary position rather than serve as a mere placeholder for nominee Jonathan Gould.

Takeaway **While policy positions and priorities are expected to continue to shift under this Administration, the CSBS response is an early indication the OCC will continue to defend preemption boundaries going forward.**

Other Developments You May Have Missed . . .

Washington Passes Bill Taxing CU-Bank M&A. On May 20, Governor Ferguson signed legislation removing the exemption from business and occupation taxes for state-chartered credit unions if they acquire a state-chartered bank. The law is effective Oct. 1, and excepts transactions that are already under regulatory review.

Bottom Line: The novel approach fulfills twin bank industry aims of imposing a tax on credit unions while also penalizing their acquisition of banks, and may spawn copycat legislation in other states. Limitations in scope—out-of-state and federal CUs and banks are not covered by the provision—may reduce the intended effect of the law.

Federal Court Dismisses Suit Against Former First Republic Leaders. On June 9, a federal district court in California granted a motion to dismiss a 2023 lawsuit alleging securities fraud that was filed by shareholders, including a pension fund, against individual officers and directors of the former First Republic Bank.

Bottom Line: The court lacked jurisdiction over the claims because federal statute requires the plaintiffs to first exhaust all administrative remedies with the FDIC, the failed bank's receiver. The decision highlights the consequences of failing to follow the FDIC's claims procedure, regardless of the allegations' merit.

FHFA Director Directs GSEs to Consider Crypto as an Asset. On June 25, FHFA Director Pulte directed Fannie Mae and Freddie Mac to prepare a proposal to consider crypto as an asset for reserves in their single-family mortgage loan risk assessments, even if the crypto has not been converted to U.S. dollars.

Bottom Line: While the directive requires the crypto to be stored on a U.S.-regulated centralized exchange, inclusion of crypto as an asset will change the GSEs' evaluations of borrowers' creditworthiness. The order reinforces the Administration's broad efforts across agencies to integrate crypto into mainstream financial services.

Nissan Submits ILC Application. On June 20, Nissan Motor Acceptance Company announced it had submitted an application with the FDIC and Utah Department of Financial Institutions to form an industrial loan company (ILC), Nissan Bank U.S., LLC, to be headquartered in Salt Lake City.

Bottom Line: Nissan joins a steadily growing list of commercial entities—including beyond the auto industry—seeking an ILC charter under the new Administration. While the FDIC has signaled an openness to new ILCs, bank trade opposition to the charter form will test early on how welcoming the agency will be to de novo banks.

About Us

Luse Gorman, PC is a Washington DC-based law firm that specializes in representing regional and community banks across the country. Our attorneys have served with the major federal banking and securities agencies and regularly engage with these agencies on a broad range of complex and novel compliance, regulatory, enforcement, and application issues. Our firm also specializes in mergers, acquisitions, and capital raising transactions, as well as general corporate and securities issues, tax law, executive compensation and employee benefits.

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