

House Financial Services Committee hearing entitled “Oversight of Prudential Regulators”
Wednesday, May 15, 2024

Legislation

- [H.R. 8287](#), “Stress Testing Accountability and Transparency Act”
- [H.R. 8264](#), “Bank Supervision Appeals Improvement Act”
- [H.R. 8288](#), “Bringing the Discount Window into the 21st Century Act”
- [H.R. 4346](#), “Small Bank Holding Company Relief Act”

Takeaways

- ***Barr reiterates “broad and material changes” coming to Basel rule.*** Members of both sides of the aisle pushed Fed Vice Chair Barr and the other panelists on both substance and the path forward for Basel III endgame. Rep. Sherman (D-CA) noted that the U.S.’s version of the Basel III end-game has higher standards than other international jurisdictions, which means less lending compared to those jurisdictions. Rep. Casten (D-IL) asked Barr about the recent reports that the final rules could come as soon as August. In response, Barr said they are making progress on the substance of the rule, after which they will figure out process and timing. Regarding the reporting around a potential final rule in August, Barr said that article did not reflect the reality as he knows it on the ground. Rep. Barr, Fed VC Barr said the agencies are reviewing the comments submitted to the proposal now and he expects they are going to make broad and material changes across all three areas of the proposal to include operational, credit and market risk.
- ***Barr notes Basel QIS coming soon.*** Rep. Barr (R-KY) asked Fed VC Barr about the timeline for the release of the Quantitative Impact Study and whether the public would have the opportunity to comment. In response, Fed VC Barr said Fed staff are working on the QIS now, they are in the process of quality control and review right now and the QIS will be released relatively soon.
- ***FSOC’s non-bank mortgage servicing report raised.*** Rep. Foster (D-IL) asked OCC’s Hsu about the perceived risks in the non-bank mortgage space, which was highlighted in the report issued by FSOC last week. Hsu said mortgage servicing is concentrated in a relatively small number of non-bank mortgage servicers, non-bank mortgage servicers have strong connections to the GSEs and the GSEs are connected to the banking system, which could cause contagion risk. Rep. Hill (R-AR) also raised the report and noted his view that the Dodd-Frank Act pushed the mortgage servicing business out of regulated depository institutions that had high capital and regular supervision and shifted it to the non-bank sector. In response, Barr said there were a set of factors that shifted activity to the non-bank sector.
- ***Rep. Scott targets debit interchange proposal.*** Rep. Scott (D-GA) said he believed lowering the cap on debit card interchange fees will impact low-income people and will hinder banks’ ability to offer low-cost and no-cost bank accounts to low- and moderate-income people. When asked, Barr said the Fed is in the process of reviewing comments in response to this proposed rule and thinking about what to do next.
- ***Barr/Gruenberg comment on long-term debt proposal.*** Rep. Williams (R-TX) asked Barr about the potential impact of the LTD proposal on smaller bank, to which Barr said the agencies are looking at what the right calibration is given an institution’s size. Later in the hearing, Rep. Timmons (R-SC) asked Gruenberg about the proposal as it relates

to Basel. In response, Gruenberg said the long-term debt rule was developed independently of the Basel III end-game proposal and he would not link the Basel III end-game proposal with the long-term debt proposal.

Opening Statements

Chair McHenry (R-NC)

- The Biden administration's banking regulators are busy pursuing partisan agendas rather than policies that support the economy, financial system, and American families. Most recently, partisan initiatives on executive compensation, the Bank Control Act, mergers, and climate have been put forward. This injects unnecessary divisiveness and threatens agency independence. Meanwhile, significant proposals following last year's banking turmoil remain unresolved—most notably the unjustified and fatally-flawed Basel III Endgame proposal. Earlier this year, Chair Powell testified that the Basel III Endgame proposal would undergo significant changes. That's promising. But I will emphasize again that a re-proposal is in order. The Administrative Procedure Act requires a substantially changed proposed rule to be reissued for public comment. This Committee expects you to comply with the law.

Ranking Member Waters (D-CA)

- I want to applaud the FDIC, OCC, and FHFA for heeding the calls I made after last year's bank failures to implement Section 956 of Dodd-Frank to hold greedy bank executives accountable for reckless risk taking. It's past time for the Fed and other regulators to follow suit and implement this Congressional mandate without further delay.
- In light of the proposed Capital One and Discover merger to create the largest credit card lender in the country, I want to hear what regulators are doing to put away the rubber stamp and strengthen bank merger reviews. I am glad the Fed and OCC announced they will hold a public hearing in July. I hope regulators listen to the feedback, and then block this deeply flawed merger.

Barr (R-KY)

- It is time for Gruenberg to resign.
- The Basel III end-game proposed rule should be scrapped. At most, it should be re-proposed if justifiable.

Witnesses

The Honorable Michael Barr, Vice Chairman for Supervision, Board of Governors of the Federal Reserve System

- The Fed is presently monitoring for several risks. Delinquency rates are rising among certain commercial real estate loans, such as those backed by offices, and some consumer loan sectors.
- We have been making progress to improve the speed, force and agility of bank supervision.
- We have been working to make improvements to banks' ability to access to the discount window.

The Honorable Martin Gruenberg, Chairman, Federal Deposit Insurance Corporation

- Focused on the steps the FDIC is undertaking to implement the recommendations contained in the Cleary Gottlieb report as well as broader steps the agency plans to take to address discrimination and misconduct at the agency.

[The Honorable Michael Hsu, Acting Comptroller, Office of the Comptroller of the Currency](#)

- Risks from commercial real estate and interest rate exposure at banks continue to warrant attention.

Question and Answer Session

McHenry (R-NC)

- Barr, if there are significant changes made to the Basel III end-game proposal, will you commit to re-proposing the rule? You must comply with APA requirements. Barr: We haven't made a decision on process yet. We are focused on getting the substance right.
- The FDIC's workplace issues played a role in Signature Bank's failure. Gruenberg, do you agree with that statement? Gruenberg: The FDIC's Chief Officer Risk report did not identify FDIC workplace issues as playing a role. I myself do not think the FDIC's workplace issues played a role in the failure.
- Gruenberg, the report on the FDIC's workplace says you react to bad news given to you by FDIC staff with rage and anger. I believe this makes FDIC staff less willing to deliver bad news to you which decreases the effectiveness of the agency.

Waters (D-CA)

- Asked Gruenberg what tasks the FDIC has completed outlined in its December 2023 action plan to address workplace discrimination and misconduct at the FDIC. Gruenberg: We will complete all of the tasks identified in that action plan by the end of this year. In addition, we have already begun to implement some of the recommendations contained in the Cleary Gottlieb report.
- FDIC employees need to feel free to report discrimination and misconduct.

Hill (R-AR)

- I think it is best if Gruenberg resigns.
- The courts have previously invalidated an agency's rulemaking where the final rule was not a logical outgrowth of the proposed rule. Bloomberg has reported that the three banking agencies have already decided to simply adjust the original proposal rather than just start over. Barr, have the banking agencies already decided to finalize the rule and not re-propose the Basel III end-game proposed rule? Barr: We haven't made any decision at all with respect to the process. Gruenberg: We haven't made any decision yet. OCC: We haven't made any decision yet.
- FSOC has released a report on non-bank mortgage servicing that has called for a federal bailout fund. The Dodd-Frank Act pushed the mortgage servicing business out of regulated depository institutions that had high capital and regular supervision and shifted it to the non-bank sector. Barr, do you agree that the Dodd-Frank Act had this effect? Barr: I think there were a set of factors that shifted activity to the non-bank sector.

Sherman (D-CA)

- I hope we have a separate hearing regarding the FDIC report.
- The U.S.'s version of the Basel III end-game has higher standards than other international jurisdictions which means less lending compared to those jurisdictions. Yet, the proposal has lower capital standards as it relates to banks' market risk. The proposal

ignores interest rate risk on long-term bonds that are HTM. The proposal also treats loans to public companies versus non-public companies differently for capital purposes which I don't agree with.

- There are reports the Fed is going to change the rules for the discount window. I hope the Fed makes the window more available to small- and medium-sized banks. There are reports the Fed is considering basing the amount of collateral which must be posted to borrow from the discount window on the amount of the loan as well as the level of a bank's uninsured deposits. Barr, can you assure me that the amount of collateral will be based on the size of the loan and not the amount of uninsured deposits? Barr: We are working on the substance of this now. We are looking at a range of measures.
- Barr, can you assure me that the Basel III end-game proposal will treat clean energy tax credits just as we currently treat LIHTCs? Barr: We received helpful comments on the tax credit provision.

Lucas (R-OK)

- The Basel III end-game proposed rule will constrain the capacity of banks to offer central clearing to clients for derivatives. We should be careful not to reduce market access particularly at the same time as the SEC is mandating clearing in the Treasury market. Clearing is a risk reducing function for the market. The Basel III end-game proposal penalizes central clearing for derivatives. Gruenberg: We've received a lot of comments on this issue. This issue is still a work in progress. Barr: We are taking all of the comments on this issue seriously.
- I believe the Basel III end-game proposed rule should be re-proposed.
- I have concerns with the FDIC's corporate governance proposal. I believe the proposal should more closely align with the Fed's and OCC's corporate governance regimes. Gruenberg, is it a high priority for the FDIC to align this proposal more closely with the Fed's and OCC's regimes? Gruenberg: We're receiving comment on the proposal right now.

Meeks (D-NY)

- Asked Gruenberg about racial and gender discrimination at the FDIC.

Sessions (R-TX)

- In 2020, the FDIC IG issued a report that the FDIC had not yet established an adequate sexual harassment program. Inquired about the FDIC's lack of an adequate sexual harassment program.

Scott (D-GA)

- Lowering the cap on debit card interchange fees will impact low-income people and the banking industry. It will hinder banks' ability to offer low-cost and no-cost bank accounts to low- and moderate-income people. Barr, are you aware of this? What do we do about it? Barr: We are in the process of reviewing comments in response to this proposed rule. We are thinking about what to do next.
- Barr, if the allowable fees on debit card swipes are lowered, does the Fed share the banks' concerns about the availability of low- or no-cost bank accounts for consumers? I would hope that before we move on this proposed rule we get a full understanding of the proposal's impact on low-income people and small businesses. Barr: We are in the process of reviewing comments in response to this proposed rule.

Barr (R-KY)

- Hsu, has Gruenberg ever directed his anger at you including concerning discussions surrounding reform to the bank merger review process? Hsu: No.
- Barr, you have stated to me privately that the public will be able to comment on the Quantitative Impact Study done in connection with the Basel III end-game proposed rule. What is the timeline for the release of the QIS? Barr: Fed staff are working on the QIS now. There are in the process of quality control and review right now. The QIS will be released relatively soon.
- Barr, given the broad bipartisan opposition to the Basel III end-game proposed rule, why is there even a question that the proposal should be withdraw in full? Barr: We are reviewing the comments submitted to the proposal now. I expect we're going to make broad and material changes across all three areas of the proposal to include operational, credit and market risk. Once we decide on the appropriate substance for the rule, we'll turn to the question of what the appropriate process is. We've not gotten there yet.
- Barr, are you concerned the gold-plating of the Basel III Accords by the U.S. will put U.S. banks at an international competitive disadvantage? Barr: Having very strong capital requirements for U.S. banks has been a competitive advantage for them internationally.

Himes (D-CT)

- Gruenberg, if you are not the right leader to help the FDIC address the discrimination and misconduct identified in the report, I hope you will do the right thing.
- Barr, when are we going to finalize the Basel III end-game proposed rule? Barr: Chair Powell and I have said we expect we will make broad and material changes to the rule. We're not on a timetable that is dictated by anything other than getting it right.
- Barr, I need to understand the analysis underlying the call for additional capital. If I get that analysis, and it's persuasive, I can support the rule, but I need the analysis.

Luetkemeyer (R-MO)

- The FDIC report notes that former FDIC Chair McWilliams was trying to change the FDIC's culture. It also said FDIC staff felt comfortable reporting problems to her.
- Gruenberg, you need to go. If you have the decency, please step down. If you don't, I would ask President Biden to replace you immediately.

Foster (D-IL)

- Hsu, can you talk about some of the risks concentration in the mortgage servicing sector poses to the financial system? Barr: Currently, mortgage servicing is concentrated in a relatively small number of non-bank mortgage servicers. There are certain vulnerabilities these non-bank mortgage servicers have. Thus, if there are disruptions in the services provided by these servicers, that could have an impact on many people.
- Hsu, what does contagion look like as it concerns non-bank mortgage servicers that would be a source of worry? Could non-bank mortgage services pose risk to the GSEs? Hsu: Non-bank mortgage servicers have strong connections to the GSEs. The GSEs are connected to the banking system.
- FSOC's report on non-bank mortgage servicing contain recommendations for Congress. If Congress were to enact those recommendations, they would help promote financial stability.

Huizenga (R-MI)

- The FDIC report noted former FDIC Chairs Bair and McWilliams did institute cultural reforms at the FDIC.

- The FDIC report notes Chair Gruenberg reacts to negative news given to him by staff with anger. Given this, Mr. Gruenberg, if you can't handle bad news, you are not the right person to lead efforts to change the culture at the FDIC.

Beatty (D-OH)

- Gruenberg, while I believe you must take accountability for the findings of the report, it's important to point out that you do not share the blame for the findings in this report alone. The blame also lies with other members of the FDIC staff and former FDIC chairs.

Wagner (R-MO)

- Gruenberg, FDIC employees and Congress have lost confidence in you. You should be fired. Not resigned, fired.
- Hsu, has Gruenberg failed to properly address FDIC workplace discrimination and misconduct? What makes you believe he remains qualified to make the necessary cultural and structural changes to the FDIC? Hsu: I believe Gruenberg has taken full responsibility.

Lynch (D-MA)

- Asked Gruenberg what his plan is to address the issues identified in the FDIC report. Gruenberg, I'm not so sure you're the guy to make the needed changes, but maybe you are. I don't know.
- Hsu, is it possible to tokenize any security? Hsu: It depends on how you define tokenization. Some people are using the term tokenization very loosely, and I would caution against that because for tokenization to solve the underlying problem of settlement it has to be fully aligned with the legal system. You have to solve not just the underlying technical problem, but the legal problems as well including who owns it, how do you transfer ownership, how do you do risk management, etc.
- Hsu, my fear is that tokenization could upend the traditional securities market. Is that a legitimate fear? Hsu: That is a possibility if it's not done correctly.

Williams (R-TX)

- I don't believe Gruenberg can implement a cultural change at the FDIC if he can't even accept responsibility for his own actions.
- The long-term debt proposal would require banks to hold long-term debt equal to at least six percent of its risk-weighted assets. This amount is far too high for regional banks given their risk profile. Barr, how do you see this requirement impacting smaller banks? Do you think there is value in tailoring the percentage required based on the size of the bank? Barr: We are looking at what the right calibration is given an institution's size. We received a lot of comments on this question.
- Hsu, has the OCC held discussions with small businesses regarding the impact the Basel III end-game proposed rule will have on them? I am worried the proposal will reduce lending to small businesses. Hsu: We received a lot of comments from small businesses on the proposal, and we are looking at those comments very closely.

Vargas (D-CA)

- I do have concerns with the Basel III end-game proposed rule. I do think the proposed rule makes it more difficult for first-time homebuyers to obtain a mortgage.
- Asked Gruenberg what led to the FDIC's cultural problems.
- Gruenberg, I have serious doubt about your ability to lead cultural change at the FDIC given the revelations about your temperament in the FDIC report.

Loudermilk (R-GA)

- I am disturbed by the Cleary Gottlieb report.
- Asked Gruenberg why Congress should trust he will do better in the future when it comes to his personal temperament. Gruenberg: I accept the findings of the FDIC report. I am committed to addressing the findings of the report. I am committed to implementing the recommendations made in the report specifically as those recommendations relate to me. I understand FDIC employees have experienced my temperament in a way that was disturbing to them. I accept that, and I'm committed to addressing it.
- Asked Gruenberg how FDIC staff can expect their harassers to be held accountable when Gruenberg is not held accountable for his own behavior.
- Gruenberg, I would ask you to resign.

Casten (D-IL)

- Gruenberg, I think it's an open question whether or not your removal would help solve the cultural problems at the FDIC. Finding a new person for FDIC Chair is the Senate's job, and no one has ever accused the Senate of fulfilling that duty quickly.
- Gruenberg, are you considering lowering the risk-weights for tax equity investments from their current levels as contained in the Basel III end-game proposed rule? Gruenberg: I can't speak to what we're going to do. We have received a lot of comment on this issue. We understand the concerns that have been raised.
- Barr, there was reporting in Bloomberg last week that final rules could be coming as soon as August. Can you comment on that? Barr: The Bloomberg article did not reflect the reality as I know it on the ground. That is, we have not made any decision about the substance of the rule. We're still working our way through on the substance. We have made good progress on the substance. After we're done working our way through substance, we'll figure out process and timing.
- Barr, the Fed noted in its report on the pilot climate scenario analysis just conducted with six large banks that banks had data challenges with modeling physical risk. Can you speak to what those challenges were and what we need to do to help get that data? Barr: There was a lot of variability in banks' ability to access information surrounding insurance coverage on their commercial real estate holdings. Of course, the losses that a bank would suffer are related to the level of that insurance coverage.
- Barr, I believe that banks, once they identify climate risk, will find a way to offload that risk. Do you have the statutory authority you need to identify and chase that risk through the system? Barr: We do monitor risk throughout the financial system.

Rose (R-TN)

- Gruenberg, it is time for you to resign.

Pressley (D-MA)

- Gruenberg, it is shameful that through your inadequate leadership of the FDIC you have fueled calls for resignation from Republican political opportunists and jeopardized critical regulations pending finalization at the FDIC.
- Gruenberg, I do not have confidence that you can continue to lead in your role.

Davidson (R-OH)

- We need new leadership at the FDIC.

- Barr, have you been a part of any discussions with Secretary Yellen to designate non-bank mortgage lenders as SIFIs? Barr: The FSOC report on non-bank mortgage servicing did not recommend non-bank mortgage lenders be designated as SIFIs.
- Barr, does Secretary Yellen believe non-bank mortgage lenders should be designated as SIFIs? Barr: I do not comment on the positions of other public officials.
- Hsu, I'm concerned with the OCC's role in approving bank mergers. What is the OCC's position regarding the approval of regional and large bank mergers? Hsu: A merger application that fulfills all of the statutory factors will be approved.

Garcia (D-TX)

- Gruenberg, when did you first learn about anything inappropriate taking place at the FDIC? Gruenberg: The news reports that came out last year.
- Gruenberg, do you take full accountability for the findings of the FDIC report? Gruenberg: Yes.
- Gruenberg, will you implement all of the recommendations contained in the FDIC report? Gruenberg: Yes.
- Gruenberg, will you enter into some kind of self-improvement program to address your temperament? Gruenberg: Yes.
- Gruenberg, will you take an anger management course? Gruenberg: Yes.

Steil (R-WI)

- Before he took office, President Biden committed to firing anyone who bullies anyone else. Gruenberg, you have bullied FDIC staff. The Biden administration has not fired you because they need your vote to finalize key administration priorities including the Basel III end-game proposed rule.
- Gruenberg, do you dispute the findings in the FDIC report which say you are aggressive, harsh and disrespectful to FDIC staff? Gruenberg: I accept the findings of the report.
- Gruenberg, I have called for your resignation.
- I continue to receive complaints about arbitrary enforcement actions undertaken by the FDIC. I've heard stories about FDIC staff refusing to provide feedback to FinTechs on regulatory questions. Gruenberg, do you believe the FDIC has pursued aggressive enforcement action against FinTechs preventing innovation in the space? Gruenberg: I don't think so. Most banks manage third-party relationships, including with FinTechs, effectively and well. These relationships offer useful business opportunities to both parties.
- Gruenberg, so you would disagree with those who say the FDIC has a hostile stance toward FinTechs partnering with banks? Gruenberg: Yes.

Torres (D-NY)

- Asked Gruenberg why he is the right person to implement cultural change at the FDIC.
- Barr, I previously asked Chair Powell how he reconciles the Fed's repeat assurances of a well-capitalized banking system with the Basel III end-game proposal's assumption of an undercapitalized banking system. In response, Chair Powell said he has said for years the level of capital in the U.S. banking system is about right. Do you agree with Chair Powell that the level of capital in the U.S. banking system is about right? Barr: I don't comment on the comments of other public officials. From my perspective, overall the banking system is sound and resilient. The Basel III end-game proposal we have put forward is designed to correct for particular weaknesses.
- Barr, can you state that the Basel III end-game proposal has objectively identified the optimal level of capital in the banking system? If regulators get the optimal level wrong,

as they may be doing with the Basel III end-game proposal, it can mean less credit for households and businesses, financing for clean energy, and financing for affordable housing. Barr: It is difficult to pinpoint the optimal level of capital in the banking system.

Timmons (R-SC)

- I'm becoming increasingly concerned about rising rates of check fraud, in particular duplicate presentment fraud which occurs when fraudsters make multiple deposits of the same check. I feel like technology should solve this problem. Barr, would the Fed consider operationalizing the Fed's duplicate check notifier service or explore other technological solutions that can enable real-time fraud detection across all check processing organizations? Barr: Check fraud is a significant problem. It is a problem we are very focused on. We are looking at various technological solutions to address this problem. Technology will help address this problem, but it's not the only answer.
- The specific calibrations of the long-term debt proposal were determined using the current capital framework that the Basel III end-game proposed rule seeks amend making an accurate assessment of the long-term debt proposal impossible. It seems premature to finalize the long-term debt proposal without fully understanding the impacts of the Basel III end-game proposal. Gruenberg, while I continue to believe the Basel III end-game proposal should be withdrawn and re-issued, would you agree that the banking agencies should not finalize the long-term debt proposal until banks have a better understanding of the capital requirements they will face under the Basel III end-game rule? Gruenberg: The long-term debt rule was developed independently of the Basel III end-game proposal. I would not link the Basel III end-game proposal with the long-term debt proposal.
- Asked Gruenberg what he is going to do to address the cultural issues at the FDIC.

Velazquez (D-NY)

- Barr, why did the Fed not move forward with a notice of proposed rulemaking to implement section 956 of the Dodd-Frank Act last week? Barr: The Fed is committed to finalizing a joint rule on section 956. After discussion with my colleagues on the Fed Board, we decided it would be appropriate to have additional analysis done within the Fed. We are conducting that analysis at this time.
- Barr, do you support the need for rulemaking on section 956? Barr: I am committed to the rulemaking.
- Barr, when do you expect the Fed to join onto the section 956 rulemaking? Barr: I don't have an answer for you at this time.
- Gruenberg, I am not satisfied with the answers you have given about how you plan to ensure no further discrimination or misconduct takes place at the FDIC. I am seriously questioning my confidence in your ability to change the culture at the FDIC.

Norman (R-SC)

- In September 2022, political activists lobbied the International Organization for Standardization to adopt a merchant category code to track the sale of firearms and ammunition with the stated goal of monitoring and reporting Constitutionally protected activities. Hsu, has the OCC been involved in efforts to weaponize firearm specific merchant category codes? Hsu: No, not to my knowledge.
- Hsu, do you agree that pressuring the financial sector to reveal the purchasing history of gun owners raise privacy concerns? Hsu: There are concerns. The OCC does not believe that the banking system should target particular industries. It has to have a risk basis.

- Gruenberg, is it appropriate, in your opinion, for banks to discriminate against lawful commerce such as energy development, mineral extraction, and the firearm industry? Gruenberg: No.

Tlaib (D-MI)

- It is long past time section 956 of the Dodd-Frank Act be implemented. Barr, when will the Fed join efforts to implement section 956? Barr: I can't commit to a time. I'm doing my best to work on the rule with my colleagues on the Fed Board in a way that meets the requirements of section 956.

Meuser (R-PA)

- Barr, you said earlier during this hearing that the QIS in connection with the Basel III end-game proposal would be released very soon. Do you have a better idea when it will be released than that? Barr: I don't have a precise timetable. I think it will be released relatively soon. FDIC is presently doing quality control on the QIS. When they're done with that, we'll release it.
- The banking agencies should not move to finalize the Basel III end-game proposed rule, especially in this negative economic environment. Finalization will only further hamper an already struggling economy.

Fitzgerald (R-WI)

- Gruenberg, I can't believe you're sitting here today before the committee. I thought you would've resigned already.
- I join a long line of members of Congress that simply wish you would resign and turn leadership over to someone more competent.
- While there is bipartisan pushback to the Basel III end-game proposal, I am surprised that the extent of that bipartisan pushback seems to be limited to concerns surrounding green energy tax credits. I am concerned about the proposal's impact on access to mortgages. Barr: The Basel III end-game proposal would have a very small effect on the price of credit in the economy including with respect to mortgages and small business.
- The banking agencies are taking too long to approve bank mergers. Barr, what effect do you think this is having on banks which wish to merge? Barr: The median bank merger application approve time is under two months.

Garbarino (R-NY)

- Barr, do you intend to finalize the long-term debt proposal before you finalize the Basel III end-game proposal? Given how inter-related these rules are, I think the long-term debt proposal should not be finalized before the Basel III end-game proposed rule. In addition, the Basel III end-game proposed rule needs to be re-proposed. Barr: We haven't made any procedural decisions yet.
- The FDIC has looked at changes to passivity agreements. I'm concerned about the potential negative impacts these changes could have on access to bank capital. I'm also concerned about jeopardizing investor access to index funds. Hsu and Gruenberg, are you concerned about the potential negative impact any changes might have on bank capital? Hsu: This issue of passivity warrants careful discussion across the three banking agencies. Gruenberg: No conclusion was reached on the issue of passivity at our recent board meeting. There were a variety of views expressed during the board meeting. This is an issue the board will have to continue to engage on.
- In 2015, when the Fed first issued the G-SIB capital surcharge rule, it acknowledged that a bank holding company's method 2 score may be affected by economic growth that

doesn't represent an increase in systemic risk. At that time, the Fed said it will periodically review the coefficients and make adjustments as appropriate, but it has not done so yet. Barr, why release a G-SIB capital surcharge proposal for public comment that omits this important discussion for consideration? Barr: We did request comment as part of the proposal on how to calculate the coefficient. We are looking at those comments.

- Barr, before you released the G-SIB capital surcharge proposal for public comment, did the Fed discuss whether or not adjustments to the coefficients would be appropriate? Barr: I don't think it would be appropriate for me to talk about internal conversations at the Fed.
- The FDIC is leveraging enforcement action to discourage banks from partnering with FinTechs. I will submit a more detailed question on this topic to Gruenberg for the record.

Kim (R-CA)

- I would ask Gruenberg to resign to give the FDIC new leadership to enact much needed internal reforms.
- Gruenberg, do you think a re-proposal of the Basel III end-game proposed rule is appropriate? Gruenberg: The banking agencies are focused right now on trying to reach agreement on the substance of a rulemaking. We'll have to decide on process after we reach an agreement on substance.
- Gruenberg, what is the average time for issuing reports of examination following the date of the exit meeting? How does this differ for those banks that are active in the FinTech space? I'm concerned about the disproportionate enforcement actions on FinTechs. Gruenberg: I would be happy to get back to you on this question.
- Barr, how is the Fed thinking about improving the discount window? I would ask you to look into the limited ability of banks on the West Coast to utilize the discount window. Barr: We are working to improve procedural hurdles preventing banks from better accessing the discount window.

Flood (R-NE)

- Hsu, you've spoken about the separation of banking and commerce over the past year. Where do payment activities fall on the spectrum of banking and commerce? Hsu: Banking consists of three services that are bundled together to include facilitating payments, making loans and taking deposits. When payments activity becomes unbundled from those services and is undertaken on its own, that is commerce, it's not banking. What is happening is that sometimes those payments activities that become unbundled are sometimes being rebundled outside of the bank perimeter. That, to me, starts to approximate banking outside of the bank regulatory perimeter, and that warrants monitoring.
- Asked Hsu to provide an example of payments activities that are rebundled. Hsu: A payments company may start off providing payments services that are very narrowly defined as payments services. Then, over time, that payments company might start holding customer cash as if it's a deposit and provide that deposit with yield and then offer a loan. That bundling of services looks awfully similar to banking.
- I think bank-FinTech partnerships are important. I worry about bank-FinTech partnerships not being available to community banks and instead available only to the very largest banks. Gruenberg, I've heard that FDIC bank examiners are interpreting the new inter-agency guidance on bank-FinTech partnerships as a one-size-fits-all checklist. The third-party risk guidance and novel activities program have raised some concerns

among stakeholders that regulators might be pushing to reduce or even dissolve existing bank-FinTech partnerships. Is the FDIC pushing for this? Does the FDIC support banks partnering with financially sound and compliant financial technology companies?

Gruenberg: Most banks manage third-party relationships, including relationships with FinTechs, in an appropriate way. The FDIC is supportive of those relationships as long as they are managed appropriately.