Banking and Finance Law Daily Wrap Up, FINANCIAL STABILITY—Regulators talk COVID-19 response efforts, offer reassurances at FSOC meeting, (Mar. 27, 2020)

Banking and Finance Law Daily Wrap Up

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By Jacob Bielanski

The heads of the FDIC, CFPB, FHFA, and OCC spoke primarily of temporary changes aimed at allowing banks to use their "historic" capital and liquidity buffer levels to help citizens weather the financial impacts of coronavirus pandemic.

A meeting of the Financial Stability Oversight Council on March 26 included assurances of broader financial stability through the COVID-19 outbreak from various federal agencies, including the Consumer Financial Protection Bureau, Federal Deposit Insurance Corporation, Federal Housing Finance Administration, and Office of the Comptroller of the Currency.

"The FDIC was born out of a crisis, and it has witnessed many crises," FDIC Chair Jelena McWilliams told the FSOC. "Since 1933, no depositor has lost a penny of insured deposits in an FDIC bank, and that will not change."

Both the FDIC and OCC noted that regulated banks were well-positioned to provide relief through the outbreak, a status attributed to efforts since the 2008 financial crisis to build capital and liquidity buffers to what OCC Comptroller Joseph M. Otting called "historic highs." "The OCC and other federal regulators have taken specific steps to ensure ample liquidity is available to meet customer demands and so banks can use the temporary facilities we set up to meet liquidity needs," Otting told the FSOC.

Though FHFA Director Dr. Mark Calabria voiced concerns that included "bottlenecks" in loan origination and talked broadly of disruption in both the primary and secondary mortgage markets, he suggested that the FHFA does not foresee coronavirus impacts on home lending persisting beyond the outbreak response. "Home sales are expected to recover once we are through this crisis," Calabria said.

All four agencies highlighted steps taken in recent weeks to help stabilize the market, particularly temporary rule changes design to delay requirements or increase flexibility. The FHFA asked the Government Sponsored Enterprises (Fannie Mae and Freddie Mac) to suspend eviction and foreclosure proceedings for at least 60 days, while also offering up to a year of mortgage forbearance for borrowers.

The OCC highlighted efforts to both minimize penalties while also expanding benefits of certain programs, such as the Community Reinvestment Act (CRA). The CRA, the OCC said, has been temporarily expanded to incentivize banks to continue investing in low- to moderate income communities through the crisis, while also encouraging loan modifications by "making it clear to banks that regulators will not criticize institutions for prudently working with customers affected by COVID-19."

A new webpage for Americans facing coronavirus-related financial hardship was among three efforts highlighted by CFPB Director Kathy Kraninger. The CFPB also announced "temporary and targeted regulatory flexibility" to assist entities subject to CFPB rules, noting that such efforts were designed to ultimately help consumers. A delayed mandatory reporting was the only example offered by Kraninger in her statement to the FSOC. "We recognize that many institutions are facing operational challenges due to COVID-19, and the priority must be responding to consumers facing nearer term issues," she said.

Though primarily focused on coronavirus-related issues, the FSOC meeting called by Treasury Secretary Steven Mnuchin included discussion by Treasury staff of nonbank mortgage servicer recommendations that were part

of the FSOC's 2019 Annual Report. Nonbank mortgage servicers have also been a topic of concern related to coronavirus, as state bank supervisors and industry groups have recently warned of liquidity issues among such companies.

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