

Banking and Finance Law Daily Wrap Up, WORTH NOTING—Other regulatory, legislative, litigation, and industry developments, (Jun. 27, 2025)

Banking and Finance Law Daily Wrap Up

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By WK Editorial Staff

A weekly roundup of other items of interest to the banking and finance law community.

BANKING OPERATIONS—The Office of the Comptroller of the Currency is [requesting comment](#) on the renewal of its information collection titled, “Market Risk.” The OCC also gave notice that the agency sent the collection to the Office of Management and Budget for renewal. The OCC previously requested comments on this information collection in April (see [Banking and Finance Law Daily](#), Apr. 18, 2025). The OCC’s market risk capital rule applies to national banks and Federal savings associations with significant exposure to market risk, which include those national banks and federal savings associations with aggregate trading assets and trading liabilities (as reported in the national bank’s or federal savings association’s most recent Call Report) equal to 10 percent or more of quarter-end total assets or \$1 billion or more. Comments are due by July 28, 2025.

BANKING OPERATIONS—The Federal Deposit Insurance Company is suspending its work on the Succession Management and Employee Retention Efforts project. The FDIC Office of Inspector General issued a [memorandum](#) providing an overview of the challenges facing the FDIC’s succession management and employee retention programs, describing the agency’s status, and highlighting key areas that require continued attention. The agency noted that “In light of the evolving workforce landscape facing the Federal Government and the FDIC,” it believes it “prudent” to delay further work. The FDIC OIG will revisit and report on the FDIC’s efforts in these areas once the FDIC has had the opportunity to more fully implement its Workforce Optimization Initiative. On Feb. 10, 2025, the OIG received a letter from several United States Senators regarding a decision by the FDIC to rescind jobs offered to bank examiners (see [Banking and Law Finance Daily](#), Feb. 12, 2025). The FDIC’s February 19 response indicated that the agency would be adjusting its work to analyze the challenges currently unfolding at the FDIC and to ensure that stakeholders, receive the most current and relevant information on these matters.

BANKING OPERATIONS—11th Cir.: The U.S. Court of Appeals for the Eleventh Circuit reviewed a commercial banking dispute between plaintiff Gent Row, LLC, and a defendant bank (Truist Financial Corp.) in connection with the bank’s decision to close the company’s account after flagging a \$6 million wire transfer as a potentially fraudulent transaction. On the same day that Gent Row opened the commercial bank account with “a bank that later became Truist Financial Corporation,” the bank “received an incoming wire for more than six million dollars.” On the following business day, Gent Row “sought to send more than two million dollars through an outgoing wire to a foreign bank account,” and “Truist flagged the outgoing wire as a potentially fraudulent transaction.” After reviewing Gent Row’s account transactions, Truist “refused to send the outgoing wire, returned the money that had been wired into Gent Row’s account, and closed the account.” Gent Row then sued Truist, claiming that the bank had breached the written contract “governing the parties’ relationship.” The parties agreed that Florida law governed the breach-of-contract claim. The Eleventh Circuit, in an unpublished opinion, upheld the federal district court’s grant of summary judgment in favor of the bank, determining that there was no breach of contract. Further, “because we cannot say that no reasonable party in Truist’s position would have made the same decisions it did regarding Gent Row’s account, we conclude that Truist did not breach the implied covenant of good faith,” the court added ([Gent Row, LLC v. Truist Financial Corp.](#), No. 24-10387 (11th Cir. June 20, 2025)).

BANK SECRECY ACT—The Financial Action Task Force (FATF), an international, intergovernmental organization tasked with setting global anti-money laundering and counter-terrorism financing standards, has [added](#) the British Virgin Islands and Bolivia to its list of “Jurisdictions Under Increased Monitoring.” Meanwhile the FATF removed Croatia, Mali, and Tanzania from this list. Further, the separate list of “High-Risk Jurisdictions Subject to a Call for Action,” which lists Burma, Iran, and North Korea, remains unchanged—with Iran and North Korea continuing to be “subject to countermeasures in addition to enhanced due diligence.”

CAPITAL AND BASEL ACCORDS—The Federal Reserve Board [announced](#) the agency’s agenda for its upcoming conference on July 22 in Washington, D.C. about large bank capital requirements. The conference, titled “Integrated Review of the Capital Framework for Large Banks,” aims to “bring together a range of perspectives”—including those of academics, practitioners, and market participants—to discuss “the key pillars of the regulatory capital framework.” The Fed’s new Vice Chair for Supervision, Michelle Bowman, remarked, “The conference will allow for expert discussions on whether capital requirements are operating as intended and the interconnections between different requirements.” As set forth in the Fed’s [agenda](#), the conference features several panel discussions about various facets of the capital requirements, including: “Basel III endgame rules; the stress testing framework; the capital surcharge for the largest banks; and leverage requirements.”

CHECKS AND ELECTRONIC TRANSFERS—**6th Cir.:** The U.S. Court of Appeals for the Sixth Circuit reviewed a checking account agreement between Flagstar Bank, FSB and its customer, V. Gardner, in connection with an interpretation of the treatment of overdraft fees and nonsufficient funds (NSF) fees under Michigan law. During the relevant period, Flagstar billed Gardner for “(1) an overdraft fee for completed transactions that exceeded her available balance upon the transaction’s settlement, but not authorization; and (2) a nonsufficient funds fee assessed each time a merchant unsuccessfully tried to reprocess a transaction that had already been denied.” After her attempts at challenging the bank’s charges “went unresolved,” Gardner filed a lawsuit in Michigan federal district court, asserting a breach-of-contract claim against the bank. Although the lower court granted summary judgment in favor of the bank, the Sixth Circuit reversed that ruling and remanded for further proceedings. In its unpublished opinion, the Sixth Circuit determined that “a rational factfinder could conclude that Flagstar breached its contractual terms and conditions.” Deeming the pertinent provisions of the checking account agreement as “ambiguous,” the Sixth Circuit stated that while “Flagstar could have fairly interpreted the ‘Terms and Conditions’ (T&C) of its account agreement to permit multiple NSF fees for each transaction, Gardner could just have fairly interpreted the T&C to permit just one fee per transaction.” Moreover, pointing out that under Michigan law “there is no independent cause of action for breach of the implied covenant of good faith and fair dealing,” the Sixth Circuit noted that, on remand, “Gardner, as part of her breach of contract claim, can argue the bank breached the implied covenant of good faith and fair dealing” ([Gardner v. Flagstar Bank, FSB](#), No. 24-1436 (6th Cir. June 20, 2025)).

COMMUNITY DEVELOPMENT—Federal banking regulatory agencies released the 2025 [list](#) of distressed or underserved nonmetropolitan middle-income geographies where certain bank activities are eligible for Community Reinvestment Act credit ([OCC NR-2025-58](#)). The designations reflect local economic conditions, including unemployment, poverty, and population changes. Revitalization or stabilization activities in these geographies are eligible to receive CRA consideration under the community development definition for 12 months after publication of the current list. The agencies leveraged an updated [methodology](#) to designate underserved middle-income census tracts for this list, based upon revised source information from various agencies. As a result, the amended urban influence codes use similar criteria and methods as previous delineations but have been consolidated from 12 to 9 categories.

CONSUMER FINANCIAL PROTECTION BUREAU—The Consumer Financial Protection Bureau released new guidance on referring potential criminal regulatory offenses to the Department of Justice (DOJ), in a [Policy Statement](#) scheduled for publication in the June 27 *Federal Register*. The move follows Executive Order (EO) 14294, signed May 9, which directs agencies to address federal “overcriminalization.” The CFPB said it further plans to submit a detailed report to the Office of Management and Budget (OMB)—of which the current CFPB

Acting Director, Russel Vought, is also director—by the May 9, 2026, deadline outlined in the EO on its criminal referral policies.

CRIMES AND OFFENSES—The Appraisal Subcommittee of the Federal Financial Institutions Examination Council (ASC) released its [plans](#) to address criminally liable regulatory offenses under the recent executive order on Fighting Overcriminalization in Federal Regulations. On May 9, 2025, President Trump issued Executive Order 14294, Fighting Overcriminalization in Federal Regulations. Section 7 of E.O. 14294 provides that within 45 days of the order, and in consultation with the Attorney General, each agency should publish guidance in the *Federal Register* describing its plan to address criminally liable regulatory offenses. By May 9, 2026, the ASC, in consultation with the Attorney General, will provide to the Director of the Office of Management and Budget a report containing: (1) a list of all criminal regulatory offenses enforceable by the ASC or the Department of Justice; and (2) for each such criminal regulatory offense, the range of potential criminal penalties for a violation and the applicable mens rea standard for the criminal regulatory offense. The notice also includes a general policy for what factors should be considered when the ASC is deciding whether to refer alleged violations of criminal regulatory offenses.

ENFORCEMENT ACTIONS—The Federal Deposit Insurance Company has provided [guidance](#) on criminally liable regulatory offenses under the recent executive order on fighting overcriminalization in federal regulations. On May 9, 2025, President Trump issued [Executive Order 14294](#), Fighting Overcriminalization in Federal Regulations (90 FR 20363; May 14, 2025). Section 7 of E.O. 14294 provides that within 45 days of the order, and in consultation with the Attorney General, each agency should publish guidance in the *Federal Register* describing its plan to address criminally liable regulatory offenses. The guidance outlines a general policy, subject to appropriate exceptions and to the extent consistent with law, the factors that FDIC offices and employees should consider when the FDIC is deciding whether to refer alleged violations of criminal regulatory offenses to the DOJ.

ENFORCEMENT ACTIONS—As previously reported in November 2023, Bank of America was required to pay a \$12 million civil penalty and take corrective measures under a consent order reached in an administrative enforcement action brought by the Consumer Financial Protection Bureau alleging the bank violated the Home Mortgage Disclosure Act (HMDA) and its implementing regulation, Regulation C (see [Banking and Finance Law Daily](#), Nov. 29, 2023). Now, in June 2025, the CFPB has terminated its administrative enforcement action against Bank of America concerning the alleged HMDA violations. In a one-page [notice](#) terminating the agency's administrative proceeding, CFPB Acting Director Russel Vought communicated that Bank of America has fulfilled the original obligations of the November 2023 consent order.

FINANCIAL STABILITY—The U.S. and United Kingdom (UK) reaffirmed their commitment to global financial stability and pro-growth regulation in a June 24 [statement](#) on the most recent meeting of the Financial Regulatory Working Group. Discussions at the June 3 event in London centered on economic outlooks, digital finance, non-bank financial intermediation, and AI in financial services. Officials shared updates on stablecoin legislation, capital markets reforms, and cross-border payments. The UK highlighted its upcoming transition to a T+1 settlement cycle and digital innovation initiatives. Both sides emphasized cooperation through international bodies like the G20 and FSB, and pledge to convene again in early 2026.

GOVERNMENT SPONSORED ENTERPRISES—Federal Housing Finance Agency Director William J. Pulte [announced](#) in an X post that the FHFA has delivered to Fannie Mae and Freddie Mac an Order Issuing Directive to Consider Cryptocurrency as an Asset for Single-Family Loans (Decision No. 2025-360). The order “directs each enterprise to prepare a proposal for consideration of cryptocurrency as an asset for reserves in their respective single-family mortgage loan risk assessments, without conversion of said cryptocurrency to U.S. dollars.” The order further directs each Enterprise “to consider only cryptocurrency assets that can be evidenced and stored on a U.S.-regulated centralized exchange ... [and] to consider additional risk mitigants.” Each Enterprise is further required to obtain approval from its respective Board of Directors.

SECURITIES AND DERIVATIVES—The Office of the Comptroller of the Currency [released](#) a report, [Quarterly Report on Bank Trading and Derivatives Activities](#) that showed cumulative trading revenue of U.S. commercial

banks and savings associations of \$15.0 billion in the first quarter of 2025. The first quarter trading revenue was \$408 million, or 2.7 percent, less than in the previous quarter and \$297 million, or 1.9 percent, less than a year earlier. The report indicates that a small group of large financial institutions continues to dominate trading and derivatives activity in the U.S. commercial banking system; during the first quarter of 2025, four large commercial banks represented 87.1 percent of the total banking industry notional amounts and 74.9 percent of industry net current credit exposure.

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Companies: Bank of America; Fannie Mae; Flagstar Bank, FSB; Freddie Mac; Gent Row, LLC; Truist Financial Corp.

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