

[Banking and Finance Law Daily Wrap Up, WORTH NOTING—Other regulatory, legislative, litigation, and industry developments, \(Jan. 31, 2020\)](#)

Banking and Finance Law Daily

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By WK Editorial Staff

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

BANK SECRECY ACT—The Government Accountability Office has issued a [report](#) on U.S. efforts to combat trade-based money laundering, which the GAO described as "the process of moving the value of the proceeds of crime through trade transactions to attempt to disguise its origins and integrate it into the formal economy." The GAO found that the U.S. financial and trade systems have vulnerabilities that criminal organizations seek to exploit. U.S. law enforcement agencies, such as Immigration and Customs Enforcement's Homeland Security Investigations, use import and export data, suspicious financial activity reported by financial institutions, and law enforcement investigative data to identify patterns and anomalies in financial and trade transactions. Law enforcement agencies and the Financial Crimes Enforcement Network also use the data to develop leads for and support ongoing investigations of trade-based money laundering and related schemes. In addition, suspicious financial activity review teams have been established in 94 federal districts around the country, and they bring together investigators and prosecutors from different agencies to regularly review Bank Secrecy Act reports, such as suspicious activity reports, related to their geographic area of responsibility.

CONSUMER FINANCIAL PROTECTION BUREAU—House Financial Services Committee Chairwoman Maxine Waters (D-Calif) has announced several [committee hearings](#) for the month of February. The schedule includes a semiannual review of the Consumer Financial Protection Bureau and a hearing on "Monetary Policy and the State of the Economy." A full list of the February hearings appears in the committee's press release.

COMMUNITY DEVELOPMENT—Congresswoman Joyce Beatty (D-Ohio) has introduced the "Closing the Racial Wealth Gap Act" in advance of Black History Month. Among other things, the bill ([H.R. 5360](#)) would require the Federal Reserve Board to collect data on race and wealth and create a clearinghouse for pertinent economic statistics for all communities of color. According to Beatty, "Right now, white household wealth is ten times more than that of Black households. Even more alarming is the fact that Black household wealth has dropped by a staggering 75 percent in the last three decades." In addition, Beatty [communicated](#) that the measure seeks to identify "potential legislative remedies, helping countless Americans and strengthening our economy at the same time."

DEBT COLLECTION—Md.: The Maryland Court of Appeals, the state's highest court, was called to review the validity of a homeowners association's efforts—through its agents—to collect delinquent HOA assessments from a resident under state law. The court first ruled that the Maryland Consumer Protection Act (CPA) applies to HOA efforts to collect delinquent assessments because HOA assessments fall within the broad definition of "consumer debt" under the CPA. The court noted that, after experiencing difficulty making her required payments to the particular HOA, the HOA arranged for the resident to execute a promissory note, which referenced the delinquent assessments and contained a "confessed judgment" clause as well. Determining that the promissory note constituted an extension of consumer credit, the court further held that the CPA (§ 13-301(12)) prohibits the use of all confessed judgment clauses in contracts related to consumer transactions, and that "a creditor cannot circumvent the protections afforded to a debtor under the CPA by inserting language into a confessed judgment clause which purports to preserve a debtor's legal defenses" ([Goshen Run Homeowners Association, Inc. v. Cisneros](#), Jan. 27, 2020, Booth, B.).

DIRECTORS, OFFICERS AND EMPLOYERS—Ten [nominations](#) have been sent to the Senate for consideration. The nominations include Judy Shelton, of California, to be a Member of the Federal Reserve Board for the unexpired term of 14 years from Feb. 1, 2010, and Christopher Waller, of Minnesota, to be a Member of the Federal Reserve Board for a term of 14 years.

ENFORCEMENT ACTIONS—The Federal Housing Finance Agency has adopted a [final rule](#) amending its Rules of Practice and Procedure and other agency regulations to adjust each civil money penalty within its jurisdiction to account for inflation, pursuant to the Federal Civil Penalties Inflation Adjustment Act. The final rule implementing the adjustments took effect on Jan. 28, 2020, and is applicable beginning Jan. 15, 2020.

FEDERAL RESERVE SYSTEM—Michelle W. Bowman was [sworn in](#) for her second term as a member of the Federal Reserve Board of Governors. President Trump renominated Bowman for a full term on April 4, 2019, and she was reconfirmed by the Senate on Sept. 12, 2019. Bowman first took office as member of the Board of Directors on Nov. 26, 2019, to fill an unexpired term ending Jan. 31, 2020. Her second term is set to expire on Jan. 31, 2034.

FINANCIAL STABILITY—The Office of the Comptroller of the Currency has issued a [notice and request for comment](#) on a proposed revision of an existing information collection entitled "Company-Run Annual Stress Test Reporting Template and Documentation for Covered Institutions with Total Consolidated Assets of \$250 Billion or More under the Dodd-Frank Wall Street Reform and Consumer Protection Act." Comments are due by March 2, 2020. In October 2019, the OCC published a 60-day notice requesting comments on proposed revisions to the reporting templates referenced in its final rule implementing the annual stress test requirement certain financial companies are required to conduct under the Dodd-Frank Act (see [Banking and Finance Law Daily](#), Sept. 30, 2019). The OCC said it received no comments in response to the October 2019 notice and is now finalizing the proposed revisions.

GOVERNMENT-SPONSORED ENTERPRISES—The Federal Housing Finance Agency has [announced](#) a realignment to further "bolster FHFA's capacity as a world-class regulator of Fannie Mae and Freddie Mac (the Enterprises) and the Federal Home Loan Banks." According to the agency, the realignment is intended to ensure that the agency is well-positioned for the Enterprises to responsible exit conservatorship.

MORTGAGES—Representative Vicente Gonzalez (D-Texas) has introduced the Affordable Homeownership Access Act ([H.R. 5614](#)), along with Reps. Henry Cuellar (D-Texas), Andy Barr (R-Ky), and Lance Gooden (R-Texas). According to a [press release](#) issued by Gonzalez, the bill would allow individuals, small businesses, and families to sell their homes directly without paying the federal government licensing fees, as though they were mortgage originators. The bill would enable real estate owners to be seller financiers, giving homebuyers access to another form of lending in the price points that they can afford, while maintaining consumer protections.

PRIVACY—House Financial Services Committee Ranking Member Patrick McHenry (R-NC) [announced](#) he has written to Clearview AI concerning reports that the company has developed a facial recognition tool based on a collection of images of people's faces scraped from the internet. In a [letter](#) to the company's founder, McHenry requested information relating to Clearview's technology and data collection practices, with an emphasis on how those practices are applied to users of mobile payment services and peer-to-peer networks. In a [second letter](#) to Financial Services Committee Chairwoman Maxine Waters (D-Calif), McHenry requested a hearing to determine if the tool violates the U.S. Constitution or existing state biometric and privacy laws, among other purposes.

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Companies: Clearview AI; Goshen Run Homeowners Association, Inc.

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