Wealth management insights from Stifel's CIO Office

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WASHINGTON POLICY STRATEGY

Potomac Perspective

The "blame game" will be prominent at a pair of congressional hearings this week on recent bank failures. The hearings could also clarify what regulators can (or cannot) do to increase deposit insurance and congressional support for (or resistance to) an increase.

Also this week, SEC Chairman Gary Gensler will testify this week and will likely face questions on cryptocurrencies, market structure, and environmental, social, and governance (ESG) disclosures.

Bank Hearing Could Give Clues About Changes in Deposit Insurance and Other Changes in Banking Regulation – The Senate Banking Committee (Tuesday) and the House Financial Services Committee (Wednesday) will hold hearings on the failures of Silicon Valley Bank and Signature Bank. The witnesses at both hearings will be Michael Barr, Federal Reserve (Fed) Board Vice Chairman for Supervision; Martin Gruenberg, Federal Deposit Insurance Corporation (FDIC) Chairman; and Nellie Liang, Treasury Undersecretary for Domestic Finance. Both hearings are likely to feature finger pointing and blame assigning. However, the most significant questions at the hearings could be about future actions.

In the wake of recent bank failures and runs on deposits at some banks, **there have been questions regarding the regulators' ability to unilaterally increase deposit insurance and provide other assistance. This week's hearings could put regulators on the record and provide clarity about what regulators can (or cannot) do**. In our opinion, the Dodd-Frank Act eliminated the ability of regulators to increase deposit insurance for open institutions without congressional approval. Dodd-Frank replaced old authorities with a new process through which the Fed and the FDIC, with the agreement of the Treasury Secretary (in consultation with the President) could declare a "liquidity event." Under this process, the FDIC could create "a widely available program" to guarantee obligations of open (solvent) banks or their holding companies. The maximum amount of outstanding debt that can be guaranteed in such a program would be determined by the Treasury Secretary rather than the FDIC. Dodd-Frank also requires the program be approved by Congress, albeit on a fast-track basis that would prevent amendments such as other changes to banking laws. This week's hearings are likely to show limited support for such a program or for an increase in deposit insurance generally, especially among House Republicans whose opposition is critical. **As the banking situation evolves, congressional support can shift, but, currently there appears to be insufficient political support to increase deposit insurance either on a fast-track basis to approve a plan from the regulators or via regular order**.

Questions related to future changes in banking regulations are likely to go unanswered. Vice Chairman Barr said in a December speech that the Fed is undertaking a comprehensive review of bank capital requirements, and it is unlikely he will comment about an ongoing review. Also, some banking regulators, notably Michael Hsu, Comptroller of the Currency, have spoken about revising bank merger guidelines. Chances are low that the regulators will give detailed updates on the timing and scope of the work on bank merger rules, but they could give some hints on this topic.

SEC Chairman Gensler Testifies – On Wednesday, Gary Gensler, Chairman of the Securities and Exchange Commission, will testify before the House Appropriations Committee regarding the SEC's fiscal year 2024 budget request. Although the hearing is nominally about the SEC's budget, Chairman Gensler is likely to be asked about the SEC's regulation of **digital assets, its market structure regulatory proposal, and climate disclosure rules (and ESG generally).**

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