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Issue 10, 2021

Welcome!

Welcome to our last *Promissory Notes* issue of 2021. As we all know, 2021 was another interesting year in the banking and finance industry, and we expect 2022 to be much the same. Our goal, as with all of our publications, is to provide you with timely information and insights. We hope *Promissory Notes* meets that goal -- and perhaps even exceeds it.

As we look to our second year of this publication, we want your input. Does this publication provide information you want and need? Is the format easy to read? Does our monthly timeframe work well? Please email either one of us with your thoughts and suggestions. We sincerely want your input.

Happy holidays, best wishes in the new year, and as always, thank you for reading.

[F. B. Webster Day](#), Chair, [Banking & Finance Practice Group](#), and Co-Editor, *Promissory Notes*

and

[Elizabeth A. Benedetto](#), Chair, [Public & Project Finance Practice Group](#), and Co-Editor, *Promissory Notes*

"If inflation continues to soar, you're going to have to work like a dog just to live like one." - George Gobel

Bank Boards Should Press Execs on Climate Risk, OCC Says

"Acting Comptroller Michael Hsu suggested five lines of questioning bank board members should pursue to keep the pressure on bank executives to follow through on climate change risk."

Why this is important: The five questions follow an earlier statement by the OCC that it would lay out a framework for how large banks might manage climate risk. The questions to bank management are designed to generate discussions within the banks about risks and opportunities arising from climate change. Although the Acting Comptroller admits a carbon tax is not likely in the near future, he suggests that considering such a tax is useful for banks in identifying their most significant exposures and greatest concentrations of risk. One line of inquiry proposed by Hsu is to identify which borrowers are most likely

to have trouble repaying or see their collateral values decrease, either as a result of physical risk or transition away from fossil fuels. For some fallout from this sort of regulatory push, see the article below regarding "woke capitalism." --- [F. B. Webster Day](#)

Federal Agencies Approve Cyber-Attack Rules for US Banking System

"OCC, Board, FDIC will require banks to report incidents within 36 hours."

Why this is important: Federal banking regulators recently finalized a rule that requires banking organizations, as defined in the rule including, without limitation, national banks, federal savings associations and U.S. bank holding companies, to report any significant cybersecurity incident within 36 hours of discovery. The purpose of the rule, according to regulators, is to help promote early awareness of emerging threats to banks and the financial system and to allow federal agencies to react to such threats before they become systematic. Under the new rule, banking organizations must inform their primary federal regulator about incidents that have, or are reasonably likely to, materially affect the viability of their operations, their ability to deliver products and services, or the stability of the financial sector. Additionally, banking service providers must notify affected customers as soon as possible if the incident will disrupt services for four hours or more. The final rule, which applies to entities that are insured or regulated by the Federal Deposit Insurance Corporation, the Office of the Comptroller of the Currency or the Federal Reserve System, will take effect on April 1, 2022, with full compliance required by May 1, 2022. To comply with the new rule, banking organizations should review their internal policies and procedures and make revisions necessary to ensure they are poised to promptly identify and report cybersecurity incidents. --- [Elizabeth A. Benedetto](#)

Fed: Banking System Conditions Improved in 2021 as Banks Remain Strong

"As the economic recovery from COVID-19 continued in the first half of the year, banks saw early signs of loan growth emerging, along with falling delinquencies and forbearances, and an increase in profitability, the Fed said."

Why this is important: According to the Federal Reserve's recent Financial Stability Report, the financial condition of the banking system remained strong and improved during the first half of 2021. As the economic conditions continue to improve, bank data showed signs of loan growth emerging, along with falling delinquencies and forbearances, and an increase in profitability and strong capital ratios. Some data, however, signal that challenges remain. For instance, average net interest margins remained low, due in part to persistently low interest rates.

The Fed report further stressed the criticality of cybersecurity and emphasized the importance of "cyber hygiene," including IT asset management, vulnerability management and patch management, along with proactively identifying and mitigating cyber threats. While the report generally showed positive signs for the banking industry, it cautioned that threats remain, such as new COVID-19 variants, fading fiscal impulses, and persistent inflationary pressures. --- [Bryce J. Hunter](#)

West Virginia Treasurer Puts Banks on Notice for 'Woke Capitalism'

"Moore and financial officers in 15 other states wrote an open letter to the U.S. banking industry warning them against pulling investments from fossil fuel industries or making decisions about investments based on political considerations."

Why this is important: The article describes a coalition of coal-gas-oil states that might boycott banks denying or reducing capital to the fossil fuel industry. The coalition is an effort to fight, in the words of the West Virginia Treasurer, "woke capitalism" that could reduce tax revenues of states that are fossil-fuel rich. The article states that Saule Omarova, whom President Biden has nominated to be Comptroller of the Currency, was quoted in February as expressing a desire that coal, oil and natural gas companies go

bankrupt in order to tackle climate change. Between regulators and customers, banks may be caught in the middle. --- [F. B. Webster Day](#).



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