



Member FINRA/SIPC

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Washington Policy

Flash Note

The Week Ahead in Financial Policy – February 24 to 28, 2020

We discuss the following issues in this edition of our weekly policy note: (1) the Democratic presidential primary as it relates to our coverage; (2) Wells Fargo's \$3B settlement and the road ahead; (3) the CFPB's upcoming consumer data symposium; (4) the Akoya spin-off in the context of the open banking discussion; and (5) a preview of the Structured Finance Association's (SFA) annual conference. Please also see below for a compilation of notable quotes from the weekend and a full calendar for the week ahead.

ELECTION: Sanders Wins Big in Nevada, Now On To South Carolina. Senator Bernie Sanders (I-VT) cruised to victory in the Nevada caucuses and he remains the frontrunner for the Democratic presidential nomination. The Sanders campaign is gaining momentum and delegates while the centrist lane remains contested and congested.

- **Strength With Latino Voters Positive Signal for Sanders Campaign.** Sanders won over 50% of the Latino vote in Nevada, which is a promising signal for his campaign given the demographics of key upcoming states. Roughly a third of the eligible voters in both California and Texas are Latino and those states account for 10% and 6% of the total Democratic delegates, respectively.
- **Another Debate on Tuesday Night.** Democratic presidential candidates will meet for another debate on Tuesday at 8pmET. This debate will include the same participants as the last debate, but Tom Steyer will join the fray.
- **Industries Impacted By Progressive Administration.** Client conversations in recent weeks have gravitated toward a consideration of how a Sanders administration could impact specific sectors. While there would still be serious questions regarding the feasibility of many Sanders campaign proposals, a progressive White House would weigh on health insurers, BigTech, education services companies, M&A advisories, fossil fuel businesses, for-profit prisons, and large banks/PE firms. Meanwhile, a progressive White House could prove relatively positive for Puerto Rico banks, workforce/manufactured housing (e.g., UMH Properties), childcare providers (e.g, Bright Horizons), and lower price-point homebuilders. Please see [HERE](#) for a table outlining our thoughts on specific progressive policy proposals and the market implications.
- **Key Points During Client Calls.** We generally highlight the following points when discussing the election with clients: (1) it is still early in the process as only ~4% of the total delegates will be allocated by the end of this week, which underscores the importance of Super Tuesday; (2) the centrist lane of the Democratic primary remains congested, which is a structural tailwind for the Sanders campaign; and (3) we continue to believe that a contested convention remains a distinct possibility, which should be viewed as directionally positive for the Trump campaign. More broadly, there is a sense among the clients we talk to that the Trump campaign would be heavily favored in a matchup against Sanders. While that position is understandable at this stage of the race, we believe investors will be forced to reassess if Sanders continues to gain both momentum and delegates.
- **On To South Carolina.** South Carolina will hold its primary on Saturday. As of February 23, 538's polling average shows Biden with 26.5%, Sanders with 21.9%, and Steyer with nearly 17%. While Biden is still viewed as the favorite in South Carolina, polling suggests that his support has eroded. As the corresponding table shows, Biden has lost 10 points of support in 538's average polling data over the past month.

Democratic Presidential Primary Polling in South Carolina

| | Jan. 23 Avg | Feb. 23 Avg | MoM Δ |
|-----------|-------------|-------------|--------------|
| Biden | 37% | 27% | -10% |
| Sanders | 16% | 22% | 6% |
| Steyer | 8% | 17% | 9% |
| Buttigieg | 5% | 10% | 5% |
| Bloomberg | 5% | 9% | 5% |
| Warren | 10% | 9% | -2% |
| Klobuchar | 2% | 6% | 4% |

Source: 538, Compass Point

SECURITIZATION: Structured Finance Association (SFA) Annual Conference This Week. The Structured Finance Association (SFA) is hosting its annual conference in Las Vegas this week. During this event, we will be focused on: (1) the keynote speech by the SEC's Director of the Office of Credit Ratings, which warrants watching given the ongoing policy conversation surrounding the "issuer-pay" model; (2) an impressive panel on the PLS market with CoreLogic's Pete Carroll, PennyMac's Jeremy Switzer, USMI's Lindsey Johnson, Mayer Brown's Larry Platt, and SFA's Michael Bright; (3) a consumer data access panel with Lending Club's Armen Meyer; (4) a GSE CRT panel with Citi's Roger Ashworth; (5) any commentary on the Libor transition, including a panel on the merits of a legislative solution; and (6) the opening panel's consideration of the 2020 election and the market implications. Please see [HERE](#) for the schedule.

BANKS: Wells Fargo's DOJ/SEC Settlement A Step Forward, But Miles Left to Go. On February 21, the DOJ and SEC announced a \$3B settlement with Wells Fargo "to resolve their potential criminal and civil liability stemming from a practice between 2002 and 2016 of pressuring employees to meet unrealistic sales goals that led thousands of employees to provide millions of accounts or products to customers under false pretenses or without consent, often by creating false records or misusing customers' identities." As part of the settlement announcement, the U.S. Attorney for the Central District of California said: "This case illustrates a complete failure of leadership at multiple levels within the bank...Simply put, Wells Fargo traded its hard-earned reputation for short-term profits." This settlement should be viewed as a positive development for Wells Fargo and a victory for its new CEO, but we caution that there are still a number of stops on the road to redemption. Wells Fargo must still address a dozen public enforcement matters according to the *American Banker*, the Federal Reserve's asset growth cap remains in place, and, upcoming, the House Financial Services Committee has scheduled another round of hearings. Specifically, the House Financial Services Committee has scheduled three Wells Fargo hearings for March, including a hearing with CEO Charles Scharf on March 10 and another hearing the following day with two Wells Fargo board members.

MORTGAGE: Takeaways From UST/FHFA Letter on Mortgage Finance Reform. On February 20, *Bloomberg* reported on a letter from the Treasury Department (UST) and the Federal Housing Finance Agency (FHFA) responding to mortgage finance reform questions from Senate Democrats (see [HERE](#) for our original note). At the highest level, we were left with the following takeaways from the letter: (1) the UST reconfirmed that the PSPA backstop would remain after conservatorship; (2) the UST reaffirmed its stance that the FHFA "should exercise its authority as conservator to being the process" of ending the GSE conservatorships; (3) there was no material information regarding the state of the PSPA negotiations; (4) the FHFA noted that consent orders can be used as a "bridge" to ending the GSE conservatorships; and (5) the FHFA highlighted the importance of the GSE capital rule, which we expect in late March or early April. There was a fair amount of word-shaped air in this letter, which is typical with this type of correspondence,

but there were a handful of noteworthy statements. Please see [HERE](#) for our full note on this development.

CONSUMER DATA: CFPB Symposium on Consumer Financial Data Sharing/Aggregation. On February 26, the CFPB will hold a symposium on Section 1033 of Dodd Frank, which is a key component of the broader open banking policy conversation. As a matter of background, Section 1033 of the Dodd Frank Act requires that “a covered person shall make available to a consumer, upon request, information in the control or possession of the covered person concerning the consumer financial product or service that the consumer obtained from such covered person, including information relating to any transaction, series of transactions, or to the account including costs, charges, and usage data.” Notably, Section 1033 is limited to financial data that can be retrieved “in the ordinary course of its business with respect to that information.” We are highlighting (and attending) this event because it is the first substantive step the Bureau has taken on Open Banking since its October 2017 release of “Consumer Protection Principles” covering consumer-authorized financial data sharing/aggregation. The symposium will include representatives from Finicity, Wells Fargo, Petal, Mercatus, JP Morgan Chase, and NCLC. While we are pessimistic regarding near-term Congressional action on data privacy, the regulatory community is taking a greater interest in the merits and mechanics of Open Banking.

OPEN BANKING: Akoya Spin-Off Significant Development for Banks and FinTechs Alike. On February 20, FMR LLC spun-off Akoya through the sale of interests to The Clearing House Payments Co. and eleven member banks. According to Fidelity, “Akoya operates a secure application programming interface-based (API) network that creates a safer and more transparent way for consumers to grant access to their personal financial data to third-party financial apps. The network acts as a bridge between financial institutions and data recipients, such as fintechs/data aggregators, and is available to the entire financial services industry.” The WSJ provides a succinct summary: “Akoya lets customers choose which apps can access data from their bank, mutual-fund and brokerage accounts and how much information those apps can grab. When a customer links a new app to their bank or brokerage account, instead of giving it their username and password they are sent a dashboard that governs access through their financial firm.” We offer the following thoughts regarding this development: (1) the new ownership structure should accelerate adoption and therefore be a tailwind for the broader effort; (2) at scale, Akoya could stymie or stop financial screen-scraping, which is a foundational practice for certain FinTech companies; and (3) Akoya could play a central role in the coming policy discussion over consumer access, data privacy, and open banking. Our colleague Mike Del Grosso briefly touches on this development in his [weekly note](#).

ELECTION: Thoughts on Bloomberg’s Financial Reform Proposal. On February 18, Mike Bloomberg released a set of financial services reform proposals. Our sense is that these proposals are primarily intended to blunt progressive attacks, especially with Bloomberg joining the debate stage for the first time on Wednesday evening, but the overarching tone of the proposals underscores the populist shift in the Democratic party and the heightened potential for significant policy shifts. Bloomberg’s financial services proposals are not as sweeping as plans previously outlined by the Sanders and Warren campaigns, but they are more politically progressive than originally expected. Please see [HERE](#) for our brief thoughts on each specific proposal.

ELECTION: Our Takeaways From the Ninth Democratic Presidential Primary Debate. The ninth Democratic presidential primary debate on February 19 was as bellicose and frenetic as expected, but it did not change our view that Democrats face a lengthy primary battle and President Trump should be viewed as a modest favorite at least until a challenger emerges. The addition of Mike Bloomberg brought new blood to the debate and his blood was almost immediately splattered on the stage. Washington consultant Bruce Mehlman summarized it perfectly in a tweet: “Bloomberg brought a wallet to a knife fight.” In a stark departure from his barrage of advertisements,

Bloomberg appeared ill-prepared and cantankerous. Nevertheless, Bloomberg survived and he can use the time until Super Tuesday on March 3 to reset and rebrand. One bad debate doesn't sink a campaign, but it is an undeniably concerning signal for his candidacy. Please see [HERE](#) for our full update.

MORTGAGE: Call With USMI President Lindsey Johnson On March 11. Please join us for a conference call on March 11 at 2:00pmET with Lindsey Johnson, the President and Executive Director of U.S. Mortgage Insurers (USMI). USMI is the mortgage insurance trade group and currently represents five of the six active companies. Topics of discussion will include mortgage insurance market dynamics, FHA policy considerations, mortgage finance reform efforts, GSE CRT, and the EPMI/IMAGIN pilots. Please contact your Compass Point representative if interested in learning more.

CALENDAR OF EVENTS

Monday, February 24

- MON: Structured Finance Association (SFA) Conference
- 1:05pm: FHFA Director Calabria speaks at CUNA conference
- 3:00pm: Loretta Mester speaks (2020 voter, Cleveland, hawkish)

Tuesday, February 25

- TUE: Structured Finance Association (SFA) Conference
- 8:45am: AEI event on 2020 election
- 9:00am: S&P Corelogic Case-Shiller HPI
- 9:00am: FHFA House Price Index
- 10:00am: Consumer confidence
- 10:00am: The Senate Banking Committee holds a hearing titled, "Surface Transportation Reauthorization: Public Transportation Stakeholders' Perspectives"
- 10:30am: House Ways & Means Committee holds a hearing on trade with China
- 10:45am: FHFA Director Calabria delivers remarks at the NABE conference
- 11:30am: House Small Business Committee holds a hearing titled, "A Discussion with SBA Administrator Jovita Carranza: Current Issues and the FY2021 Budget"
- 2:15pm: Joint Economic Committee holds a hearing titled, "Improving Family Stability for the Wellbeing of American Children"
- 3:00pm: Federal Reserve Vice Chair Richard Clarida delivers a speech titled, "U.S. Economic Outlook and Monetary Policy"
- 8:00pm: Democratic presidential primary debate

Wednesday, February 26

- 7:00am: MBA mortgage applications
- 9:30am: CFPB holds a symposium on consumer access to financial records
- 10:00am: New home sales
- 1:00pm: SEC's Office of Credit Ratings Director delivers keynote address at SFVegas 2020
- 1:30pm: House E&C subcommittee holds a hearing on coronavirus
- 2:00pm: House Financial Services Committee scheduled to hold a mark-up

Thursday, February 27

- 8:30am: Durable goods
- 8:30am: GDP
- 8:30am: Jobless claims
- 9:00am: Financial Research Advisory Committee for the Treasury's Office of Financial Research (OFR) meets
- 9:00am: Comptroller Otting scheduled to speak
- 9:30am: SEC's Investor Advisory Committee meets
- 10:00am: Pending home sales index
- 10:00am: House Financial Services Committee scheduled to continue mark-up
- 10:00am: Education Secretary DeVos testifies before a House Appropriations subcommittee
- 10:30am: Transportation Secretary Chao testifies before a House Appropriations subcommittee
- 11:30am: Charlie Evans speaks (non-voter, Chicago, dovish)
- 12:00pm: The R Street Institute holds an event, "What You Should Know About 2020 Disinformation and The Election"
- 12:00pm: FHFA Director Calabria and CFPB Director Kraninger scheduled to speak
- 2:00pm: The Prosperity Now holds an event, "Promoting Mental Health through Financial Well-Being"

Friday, February 28

- 8:30am: WITA hosts event on 2020 congressional trade agenda
- 9:15am: James Bullard speaks (non-voter, St. Louis, dove)
- 10:00am: Consumer sentiment
- 3:00pm: Farm prices

NOTABLE QUOTABLE

- **Chair Waters on E-Trade Deal.** "In the wake of the Trump Administration's regulatory giveaways to the nation's largest banks, it is no surprise that yet another merger of this scale has been announced...The proposed merger of Morgan Stanley and E-Trade would be the largest acquisition by a megabank since the devastating 2008 financial crisis, providing new sources of revenue for Morgan Stanley at a time when megabanks are making record profits. This is especially concerning given the impact this merger could have on financial stability and the economy, as well as consumers, investors, employees and communities across the nation." – House Financial Services Committee Chair Waters (D-CA)
- **New State-Level Conflict-of-Interest Standard for Brokers.** "Massachusetts regulators on Friday finalized a conflict-of-interest standard that applies to both broker-dealers and investment advisers, setting off a wave of criticism from trade groups, which would prefer a federal fiduciary rule that would apply nationwide. The commonwealth now has the first fiduciary conduct rule on the books that differs from the SEC's so-called best interest regulation finalized in June 2019. The financial industry is closely watching state-level regulatory efforts, and similar proposals are pending in Nevada and New Jersey." – Politico on February 21
- **Pension-Advance Scheme.** "On February 20, the CFPB, the South Carolina Department of Consumer Affairs, and the Arkansas attorney general filed a complaint in the U.S. District Court for the District of South Carolina against a South Carolina-based company and two of

its managing partners (defendants) for allegedly violating the Consumer Financial Protection Act and the South Carolina Consumer Protection Code by working with a series of broker companies that brokered contracts offering high-interest credit to disabled veterans and other consumers in exchange for the assignment of some of the consumers' unpaid earnings, monthly pensions, or disability payments. Under federal law, agreements under which a person acquires the right to receive a veteran's pension or disability payment are void, and South Carolina law—which governs these contracts—'prohibits sales of unpaid earnings and prohibits assignments of pensions as security on payment of a debt.'" – Buckley on February 21

- **White House Tax Plan.** "Economic advisers to the White House have suggested President Trump propose a new minimum tax on corporations as part of his election year "tax cut 2.0# package, two people briefed on the planning said, hoping to address criticism that the 2017 tax law allowed many of the country's largest firms to virtually eliminate their federal tax burden. The idea, which is part of preliminary discussions and has not been officially endorsed, could attempt to blunt criticism from Democrats that the GOP tax law allowed many large corporations to wipe out their federal corporate taxes altogether. The plan could also help generate revenue that might be used to offset the impact of new, middle class tax cuts. Trump has promised he would roll out a middle class tax plan before the 2020 presidential election." – Washington Post on February 19
- **Bernie Numbers.** "Internal polling and analytics completed last week by former New York mayor Mike Bloomberg's campaign projected that Sanders may be the only presidential candidate to win delegates in every state and district on March 3, delivering him a lead of 350 to 400 out of 1,357 delegates set to be awarded unless race dynamics change, according to a person familiar with the data who spoke on the condition of anonymity because the person was not authorized to speak publicly. Because of Democratic rules that give no delegates to candidates who scores less than 15 percent of the vote in a state or congressional district, Sanders could build a delegate lead far greater than his advantage in the popular vote." – Washington Post on February 22
- **Goldman Passed on E-Trade.** "Goldman Sachs had plenty of chances to make an offer for discount brokerage E-Trade before rival Morgan Stanley made its \$13 billion move, but the bank didn't throw its hat in the ring, according to people with knowledge of the situation... Goldman 'had the opportunity to express their interest and they didn't,' said one of the people with knowledge of the matter. Goldman had examined the possibility of a deal internally and decided against it, said another person. One reason: The bank's own direct-to-consumer play, Marcus, had already gathered more than \$50 billion in consumer deposits, the cheap funding source that Morgan Stanley would be getting in the E-Trade takeover." – CNBC on February 20

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