CAPITOL ACCOUNT

Decoding Hsu's Big Speech on Breaking Up Banks

By Robert Schmidt

Hsu React: There’s been a lot of armchair analysis, and some head scratching, over Acting Comptroller **Michael Hsu**’s speech this week raising the specter of breaking up the biggest banks. And while it can sometimes be difficult to read into regulator-speak, the takeaways have been wildly divergent: either Hsu was engaging in some harmless bank-bashing, or he’s pulling out his Bazooka and getting ready to fire away.

Many in the industry were a bit surprised at the topic, thinking that the issue had been pretty much laid to rest in recent years. Still, bank executives and their lawyers came down mostly on the not-a-big-deal side. A number of progressives (including Senator Warren) immediately pointed to Wells Fargo – their idea of a truly too-big-to-manage firm. But they also wondered why Hsu hadn’t taken more aggressive steps. Bank lawyers, not surprisingly, focused on the more wonky aspects. They were interested in just how far along the OCC may be in writing guidance, or even rules, on Hsu’s “escalation framework” for when selling off assets or businesses is necessary.

Here are a few other thoughts that people across the financial regulation world passed on to us about the provocative remarks.

Motivation: Why bring this up at all? A number of folks pointed to the “acting” in front of Hsu’s title. If he is looking to get nominated for the permanent comptroller job, there is one constituency that Hsu especially needs to please – progressives. Tacking left on one of their favorite topics is a politically astute move, people noted. But if that was Hsu's main goal, his words weren't exactly met with effusive praise. "The OCC has a long record of being super-tight with the big banks. The onus is on them to ensure that this plan on too-big-to-manage is not just paper-pushing," says **Sarah Pray**, managing director for policy at Americans for Financial Reform. "Process is nice, but results – delivered promptly – that finally end chronic abuse of consumers by too-big-to-manage megabanks would be better." And here's Warren's initial reaction:

Elizabeth Warren
@SenWarren

The evidence is overwhelming that @WellsFargo is too big to manage. It's long past time for regulators like Acting Comptroller Hsu to actually use their authority to break up lawbreaking banks and prevent future harm to consumers once and for all.

wsj.com
Big Banks Might Face Breakup, Top Regulator Says

Motivation, part 2: Other (cynical) observers in Washington took note that the speech came the very same day that the OCC and the Fed signed off on BMO's acquisition of Bank of the West. Not a bad time to talk tough on Wall Street, especially since many Democrats who've sought to restrict bank mergers were likely to be none too pleased with the approval. Capital Alpha Partners financial analyst **Ian Katz** called this the "honey and hammer approach" in a recent note. In an interview, he adds that it's "no coincidence" the two occurred together. "It shows you, whether you call it politics or optics, he's paying attention," Katz says.

Chopra, Wells and M&A: Even as those on the left were telling Hsu that actions speak louder than words, some saw a potentially big upside in the speech. The comptroller, they noted, seemed to be (albeit carefully) following in the footsteps of CFPB Director **Rohit Chopra** – who's made no secret of his disdain for Wells Fargo and the need for additional measures to rein in the bank (and there is not much left except divestitures at this point). See, for example, Chopra's comments last month when he announced a $3.7 billion settlement with Wells Fargo: "We will continue our work with the other federal banking regulators to end the rinse-repeat cycle of consumer abuse at this firm." For his part, Hsu used the term "recidivist" in his speech – a favorite term of the CFPB chief. And progressives were heartened by this line from the acting comptroller as well: "I see significant value in working collaboratively with the other federal banking agencies as we refine our thinking." Getting the two bank overseers (who also sit on the FDIC board) on the same page would spell significant trouble not only for Wall Street, but for bank M&A as well. (Wells Fargo, by the way, recently announced that it was scaling back its mortgage business, which will make it smaller and, presumably, easier to manage.)

Details to come: Most intriguing to those who drill down on bank policy was Hsu's assertion that, "at the OCC, we are considering steps to provide greater transparency and predictability into the escalation framework" that he laid out in the speech. What does that mean exactly? And how far along is the agency's staff in getting that done? Those questions are likely to be discussed for the next few weeks. Hsu may give an update next month at the OCC's symposium on bank mergers.

Lastly: One thing that is clear to close observers of Hsu is that he does strongly believe in having guidance or a rule that would better spell out when regulators should order a divestiture. That, of course, would give the government a pretty big stick to get problem banks in line. Using it, however, is a much bigger step. And most see that as much less likely.