

March 4, 2019



## **March Winds Will Blow All of Our Troubles Away**

As we move into March and hopefully spring weather at some point, Congress currently is in the middle of a three-week work period. Four more DC work weeks will follow a recess week after St. Patrick's Day heading into the April spring recess. Last week was very busy in Washington and produced noteworthy hearings on the credit bureaus, privacy, diversity and monetary policy, among others (and not to mention Michael Cohen), and these next few weeks promise to be just as hectic. To highlight a few noteworthy events over these next few weeks – CFPB Director Kraninger has appearances scheduled in the House and Senate, Wells Fargo will be back in the spotlight, diversity in the corporate world will continue to be scrutinized, and there undoubtedly will be more Trump Administration oversight. This week, the full House will spend most of its time on HR 1, the broad Democratic campaign finance, ethics and voting rights reform bill, which should pass through that chamber easily but will die quickly in the Senate. On the other side of the Hill, we still expect the Senate to spend a majority of their Floor time on nominations, especially judicial nominees, but we also expect to see Mark Calabria confirmed as the new FHFA Director in the next month. We highlight these and other issues below as we briefly preview what we believe will be the focus in Washington in March, subject as always to external or unexpected events that could disrupt the schedule.

### **Appropriations and Budget**

While last years appropriations process just ended, we expect the FY2020 process to begin in earnest when the Administration submits its budget request to Congress – which could happen as soon as the week of March 11<sup>th</sup>. In the House, Members have been asked to submit their funding priorities to the Appropriations Committee by the end of March/beginning of April (depending on the subcommittee) and we expect that Cabinet level officials will be called to testify on their budget requests in both Chambers soon. Congress will also need to pass a budget caps deal by the end of September to prevent mandatory spending cuts – something that we do not think either party supports due to cuts to both domestic and defense programs. In addition, Congress will need to raise the debt ceiling around the same time – the latest projections estimate that “extraordinary measures” will run out this fall. While this all seems like a complicated mess right now, we expect that a plan to tackle these three issues will begin to emerge in the coming weeks.

### **Expected Senate Banking Committee (SBC) Activity**

SBC is in full swing heading into March. As previously reported, Chairman Crapo (R-ID) kicked off consideration of housing finance reform and privacy with two separate announcements in January and February. Staff continues to work towards fleshing out Crapo's housing finance reform outline, turn it into legislative language, and start to build bipartisan support. On the privacy front, which is discussed in more detail below, Chair Crapo and Ranking Member Brown (D-OH) have laid out an arduous path forward for a comprehensive consideration of the issue.

On the hearing front, SBC finished off a busy last week of February (Federal Reserve Chairman Powell and capital formation hearings) by announcing two major hearings the second week of March. First up, CFPB Director Kathy Kraninger will testify for the first time since being confirmed last year. While SBC will follow the House with Kraninger, we expect the Director will face significant oversight questions from Democrats regarding the CFPB proposed short-term, small dollar credit rulemaking, fair lending enforcement, and operational issues. On the Republican side, we expect Senators to praise Director Kraninger for her steady hand transitioning into the agency. Further, we expect some questions on small business lending data collection (Dodd-Frank Section 1071) and the Bureau's implementation plans. Following the CFPB hearing, the Committee will conduct an FSOC nonbank designation hearing, which will be one day after the first FSOC meeting of the year. We expect the FSOC to release its long awaited guidance where it will shift systemic risk evaluations from an entity-based to an activities-based approach. This guidance will receive considerable attention from hearing witnesses at SBC. The rest of the March hearing schedule is still being developed, but we believe a late March hearing with SEC Chairman Clayton is possible.

### **Expected House Financial Services Committee (HFSC) Activity**

HFSC Chairwoman Waters (D-CA) will continue her oversight of the financial industry and the Trump Administration's regulatory agenda throughout March. After HFSC holds its traditional budget views and estimates mark-up Wednesday, CFPB Director Kraninger will make her first appearance in front of the Committee the following day on March 7<sup>th</sup>, where we expect she will face similar questions to those mentioned above and also likely aggressive questioning from Committee Democrats. Chairwoman Waters has called Wells Fargo to testify in front of the full committee next week at a March 12<sup>th</sup> hearing entitled "Holding Megabanks Accountable: An Examination of Wells Fargo's Pattern of Consumer Abuses," and has scheduled a full committee hearing on the National Flood Insurance Program for that week as well. At the Subcommittee level, the Investor Protection, Entrepreneurship and Capital Markets Subcommittee will hold hearings reviewing the SEC's Regulation Best Interest on March 14<sup>th</sup>, and "Proposals to Improve Environmental, Social and Governance Disclosures" on March 26<sup>th</sup>. Also of note is a March 13 hearing in the National Security, International Development and Monetary Policy subcommittee entitled, "Promoting Corporate Transparency: Examining Legislative Proposals to Detect and Deter Financial Crime." We understand that Rep. Maloney's (D-NY) Beneficial Ownership bill will be considered at that hearing and additional bills are likely to be added. HFSC also could hold a mark-up the last week of the month on cannabis banking and other legislation, but that has yet to be confirmed and could slip into April.

### **Privacy**

In February, SBC Chairman Crapo and Ranking Member Brown announced a Committee process to consider privacy issues. Crapo and Brown specifically outlined a request for information process that is driven by certain core questions asked by the Committee – they have requested submission by March 15<sup>th</sup>. This privacy process mirrors the request for regulatory relief proposals announced last Congress by Crapo and Brown. During that process, the Committee used submissions to serve as the foundation for Committee hearings and eventually the development of the regulatory reform bill, S. 2155. Based on our observations of that effort last Congress and additional conversations with staff, Crapo and Brown are looking for submissions that are prioritized, specific, detailed, and include supporting material/legislative proposals. This effort serves two functions: 1) to create a record and a formalized process to tackle a major issue; and 2) to assist staff in evaluating the waterfront of issues under a singular theme.

As evidenced by the questions and our conversations with staff, this effort is about more than data security and data breach notification – it will also tackle the collection, use, sharing, storage, and security of consumer data. The Committee’s jurisdiction is broad in this space and encompasses existing frameworks including the Fair Credit Reporting Act, Gramm-Leach-Bliley Act, third-party service provider authorities by regulators, and general safety and soundness principles. As a result, it is our expectation that the waterfront of issues to be examined, and companies that could come under review, include non-traditional financial services entities due to their interaction and relationship with financial institutions.

Next steps in SBC will be to close out the request deadline, review submissions, and begin hearings, which will likely start in April. RFA believes it will be important to monitor how the Committee’s efforts interact with privacy efforts happening in the Senate Commerce Committee and consideration of the issue in Judiciary. While already a complex policy issue, whenever multiple Committees get involved, the process complexity is amplified.

### **Housing Finance Reform**

Following the release of Chairman Crapo’s housing finance reform outline, the Senate Banking Committee quickly moved to consideration of Mark Calabria to be the next FHFA director. Calabria hit on the key issues and made few unforced errors in his Committee testimony. Many believed he could receive some Democratic support, but his nomination ultimately progressed on a party-line vote. RFA understands that Calabria is the number one nomination priority for SBC and one of the very top priorities for the White House. We continue to believe the full Senate could process Calabria before the March recess week, but at a minimum, by the end of the month.

Judging by Calabria’s testimony and our conversations, we continue to believe that the Administration and FHFA will give Congress a significant ramp in 2019 to try to pursue a comprehensive legislative solution. RFA is closely monitoring the expectation that the Administration will release an Executive Order on housing finance reform in the next few weeks. Based on our conversations and precedent, the Executive Order will likely outline the Administration’s housing finance reform principles and require Treasury and HUD to study and report on key policy questions, including those that could ultimately be accomplished with administrative action.

On the House side, we have not seen any indication of a similar effort to consider housing finance reform comprehensively. HFSC Chairwoman Waters has continued to publicly indicate she is interested in the issue, but our expectation is that consideration at the outset will be limited to affordable housing. Further, the Subcommittee on Housing and Insurance is likely to spend the spring continuing to work towards flood insurance reauthorization.

### **Sanctions**

Various congressional committees of jurisdiction, including Senate Foreign Relations, House Foreign Affairs and House Financial Services, are working on Russia sanctions legislation. While neither Senate Majority Leader McConnell (R-KY) nor House Speaker Pelosi (D-CA) have made any decisions about moving forward with legislation, there is an expectation on the House side that something is likely to move on the House Floor before the August recess. Some are focusing on Russia’s ability to issue “new sovereign debt” and the ability of European banks to finance investment in Russia’s energy development

and transmission projects. Note that Sens. Menendez (D-NJ), Graham (R-SC) and others already have introduced legislation that, among other things, seeks to sanction LNG projects outside of Russia.

### **Emergency Powers Termination**

The House last week voted to terminate President Trump's national emergency declaration regarding border wall funding, with all Democrats in attendance and 13 Republicans voting for the resolution. The Senate has 18 days from that vote to consider the resolution (meaning they will do so ahead of this month's recess week), which only requires a simple majority to pass. If all Democrats vote for the resolution (Sens. Manchin (D-WV) and Jones (D-AL) are the ones to watch as to whether this holds true), then only four Republicans are needed for it to pass. With at least four Republicans (Sens. Tillis (R-NC), Murkowski (R-AK), Paul (R-KY) and Collins (R-ME)) already stating that they would support the disapproval legislation, and others such as Sen. Alexander (R-TN) voicing concern with the President's action, the measure looks to have enough support in the Senate. The White House already has weighed-in with strong opposition to the measure, so it appears increasingly likely that President Trump will be forced to use his first veto. However, given the number of Republicans who supported the resolution in the House, it is unlikely that there will be enough votes to get the two-thirds required there to override the veto - over 40 more Republicans would have to vote to override (not to mention the likely number of additional Republicans who would be needed in the Senate). But that doesn't mean the issue will end there, as more attention will turn to the courts where numerous legal challenges are being brought to challenge the constitutionality of this national emergency declaration by President Trump.