

November 12, 2019



November Shadows, Shade November Change

The House and Senate are in session for less than two weeks together this month before leaving town for Thanksgiving. But even though there are just eight scheduled joint legislative days in November, this short period will be extremely active and set up the calendar for the remainder of the year. Dominating the discussion will be the public impeachment hearings, which begin tomorrow, while Congress also works to extend government funding beyond the current Continuing Resolution's expiration next Thursday. Otherwise, it's full steam ahead as committee schedules are packed this month (such as Federal Reserve Chair Powell's appearance tomorrow before the Joint Economic Committee), so please find below a brief preview what we believe will be the focus in Washington these next few weeks, subject as always to external or unexpected events that could disrupt the schedule.

Government Funding

Congress must come up with a funding solution in order to prevent a government shutdown on November 21st. None of the twelve annual appropriations bills have passed both Chambers, so the most likely scenario at this point is another continuing resolution that goes through mid-to-late December. Senate Republicans met with Administration officials late last week and are reportedly aiming to reach a comprehensive deal at some point in December. In addition, the leadership of the House and Senate Appropriations Committees are set to meet this week to discuss allocations for each of the 12 appropriations bills and border wall funding. In order to reach a long-term solution, Speaker Pelosi (D-CA) and President Trump will need to come to an agreement, which certainly gets more difficult as the impeachment investigation develops.

Impeachment

This week kicks off the public impeachment hearings in the House, with acting ambassador to the Ukraine William B. Taylor, Jr. as the lead witness. Before adjourning for last week's recess, the House approved a resolution to formalize the impeachment inquiry, setting the stage for the public hearings and the overall path forward. Last week, House Intelligence Committee Chairman Schiff (D-CA) outlined three questions to guide Democrats in the public hearings:

- Did the President request that a foreign leader and government initiate investigations to benefit the President's personal political interests in the United States, including an investigation related to the President's political rival and potential opponent in the 2020 presidential election?
- Did the President – directly or through agents – seek to use the power of the Office of the President and other instruments of the federal government in other ways to apply pressure on the head of state and government of Ukraine to advance the President's

- personal political interests, including by leveraging an Oval Office meeting desired by the President of Ukraine or by withholding U.S. military assistance to Ukraine?
- Did the President and his Administration seek to obstruct, suppress or cover up information to conceal from Congress and the American people evidence about the President's actions and conduct?

Meanwhile, Republicans released their witness list over the weekend and appointed Rep. Jordan (R-OH) to the Intelligence Committee in a temporary shakeup ahead of this week's televised hearings. We expect that the House will look to wrap up the proceedings with a vote on impeachment by Christmas.

Expected Senate Banking Committee Activity

The Senate Banking Committee (SBC) has a busy home stretch ahead of them to close out the year. These next few weeks will be spent by staff working on completing legislative initiatives including BSA/AML reform, privacy and considering next steps on the House marijuana financial services legislation. The most significant of these efforts is likely to take place by the end of this year with Chairman Crapo (R-ID) and Ranking Member Brown (D-OH) expected to release a discussion draft of BSA/AML reform and beneficial ownership legislation. On the hearing front, the Committee will close with major oversight hearings with financial regulators. In December, we expect the Committee to hold an oversight hearing with the Federal Reserve Board, the Office of the Comptroller of the Currency (OCC), the Federal Deposit Insurance Corporation (FDIC) and the National Credit Union Administration (NCUA). This will serve as the final opportunity for members to question the banking agencies on recent regulatory reform efforts before the end of the year. Additionally, the Committee could hold a hearing with Treasury Secretary Mnuchin on the Federal Stability Oversight Council (FSOC) Annual Report. Should this hearing materialize, we expect members to spend time focused on issues around leveraged lending, the activities-based approach proposal, cloud providers and the LIBOR transition. At this time it is unlikely to see an additional privacy hearing or housing finance hearing unless new developments emerge that require Committee attention.

Upcoming House Floor Schedule

With the House scheduled (emphasis on *scheduled*) to only be in for only 16 more legislative days this year, the opportunity for legislation to advance in 2019 is quickly closing beyond must-pass items. As discussed above, government funding will be a top priority, and Majority Leader Hoyer (D-MD) recently announced that the House would consider and likely pass a short-term continuing resolution next week. The House also is expected to take up Export-Import Bank reauthorization this week and could consider TRIA reauthorization as well as voting rights legislation this month. Looking ahead, December is shaping up to be a busy month with many high-profile issues on tap, such as HR 3 (concerning prescription drug pricing) and potentially USMCA. As mentioned above, we also expect that the House will vote on impeachment before adjourning for the year.

Expected House Financial Services Committee (HFSC) Activity

As has been her modus operandi since taking over HFSC this year, Chair Waters (D-CA) laid out her plans for the committee for this work period as the House left town for recess. Along with a markup focused mainly on debt collection issues, the committee this month also will look at

private funds, hold a second hearing on minority depository institutions and analyze data in financial services, among others. Here's the full schedule, along with the expected bills to be considered at the markup:

- **Wednesday, November 13th (morning)** – Monetary Policy Subcommittee hearing entitled, “How America Leads Abroad: An Examination of Multilateral Development Institutions.” *Focus on requests for additional capital for the World Bank and explore “America’s role in advancing international development in the furtherance of broader national security and global stability aim.”*
- **Wednesday, November 13th (afternoon) and 14th** – Full committee markup. Bills expected to be considered, include:
 - HR 2398 – to amend the United States Housing Act of 1937 and title 38, US Code, to expand eligibility for the HUD–VASH program (Rep. Peters (D-CA))
 - HR 2445 – Self-Employed Mortgage Access Act (Rep. Emmer (R-MN))
 - HR 3490 – Small Business Lending Fairness Act (Rep. Velazquez (D-NY))
 - HR 3948 – Debt Collection Practices Harmonization Act (Rep. Meeks (D-NY))
 - HR 4403 – Stop Debt Collection Abuse Act (Rep. Cleaver (D-MO))
 - HR __, Ending Debt Collection Harassment Act of 2019 (Rep. Pressley (D-MA))
 - HR __, Fair Debt Collection Practices for Servicemembers Act (Rep. Dean (D-PA))
 - HR __, Non-Judicial Foreclosure Debt Collection Clarification Act (Rep. Clay (D-MO))
 - H.R. __, Small Business Fair Debt Collection Protection Act (Rep. Lawson (D-FL))
- **Tuesday, November 19th** – Full committee hearing entitled, “America for Sale? An Examination of the Practices of Private Funds.”
- **Wednesday, November 20th (morning)** – Financial Institutions Subcommittee hearing entitled, “An Examination of Regulators’ Efforts to Preserve and Promote Minority Depository Institutions.” *Last month’s hearing was expected to be two panels, so this hearing with regulators will effectively serve as the second part of the 10/22 hearing.*
- **Wednesday, November 20th (afternoon)** – Housing and Insurance Subcommittee hearing entitled, “Safe and Decent? Examining the Current State of Residents’ Health and Safety in HUD Housing.”
- **Thursday, November 21st** – FinTech Task Force hearing entitled, “Banking on Your Data: the Role of Big Data in Financial Services.” *Focus will likely be on privacy and security implications of influx of data into financial services and whether existing regulations are enough to protect consumers.*

Regulatory Agenda

This fall has seen the release or completion of major financial reform proposals including bank tailoring, the Volcker Rule, inter-affiliate margin and the QM patch proposal. Regulators have spent the majority of the last several months working to implement major pieces of S. 2155 (the regulatory relief legislation passed last Congress), and the top regulatory priorities they focused on when they began their tenure. With the Congressional Review Act threshold inching closer (likely May 2020), the heads of the agencies are focused on taking additional steps on the remainder of their priority list. Before the end of the year we expect action on the following:

- **Activities-Based Approach (FSOC)** – FSOC has spent the last several months reviewing comments to its ABA proposal and appears close to a vote to finalize the rule. Last week, FSOC staff presented the final proposal to the principals, and we anticipate a final FSOC meeting could be called before the end of the year for it to be released.
- **Madden v. Midland Fix (OCC and FDIC)** – This fall, the OCC and FDIC jointly issued an amicus brief in the 10th Circuit in a case related to the “valid when made” doctrine. Based on recent conversations, RFA anticipates the OCC and FDIC to take an additional step by issuing a proposed rule clarifying “valid when made” by the end of the year.
- **Enterprise Capital Rule (FHFA)** – Director Calabria has had several months to review former Director Watt’s capital rule proposal. Awaiting Calabria is a decision to either finalize the rule, or reissue under a new construct. Given the capital rule is such a major component of housing finance reform, we anticipate a decision on this front by the end of the year.
- **Community Reinvestment Act (Prudential Regulators)** – It is no secret that Comptroller Otting is chomping at the bit to issue a CRA proposed rule. As his top priority, Otting has grown frustrated with the FDIC and Federal Reserve Board’s (FRB) pace of work. However, in recent weeks, the FDIC has signaled it may be picking up its pace and could join the OCC as joint movers in the near term. The FRB on the other hand is moving more slowly, which could result in an FDIC and OCC proposal with the FRB publishing later. We are encouraged by recent signs and believe the OCC and FDIC could issue the proposal by the end of the year, or at least early January.

Political

Coming on the heels of what was viewed as a fairly successful night for Democrats in last Tuesday’s off-year elections and seemingly providing them more hope in 2020, the Democratic presidential field was somewhat roiled late last week when it was reported that former NYC Mayor Michael Bloomberg is taking steps to enter the race. While Bloomberg’s potential entry reverberates, the current crop of candidates are preparing for the fifth debate next week in Atlanta. Ten candidates have met the threshold for appearing in the November debate so far (the deadline is tomorrow, but no other candidates appear close to making it), down from 12 last month – O’Rourke (who dropped out last week) and Castro (who may drop out soon) are the two who won’t appear this month, leaving it to Biden, Warren, Sanders, Buttigieg, Harris, Yang, Steyer, Klobuchar, Booker and Gabbard as the candidates expected to appear next week. Another debate is scheduled next month, and while frontrunner status and the field changes, we at least continue to get closer and closer to the voters having their first official say in Iowa on February 3rd.