

February 3, 2020



## **Gotta Get Through February**

With the conclusion of the impeachment trial likely only days away, the Senate should return to regular order in the latter half of the week as we kick off the month of February. This week is also not hurting for other events impacting Washington, including the President's State of the Union speech scheduled for tomorrow night and the Iowa caucuses on tap tonight. While the Senate transitions back to ordinary business, the House is in the middle of a three-week work period heading into a recess week for both chambers after President's Day. But over these next few weeks, we'll see Consumer Financial Protection Bureau (CFPB) Director Kraninger appear in front of the House Financial Services Committee (HFSC) as well as appearances by Fed Chairman Powell in front of both HFSC and the Senate Banking Committee. We cover these and other issues below in a brief preview of what we believe will be the focus in Washington this February, subject as always to external or unexpected events that could disrupt the schedule.

### **State of the Union**

President Trump is set to deliver his third State of the Union address tomorrow night with the mood in the Chamber expected to be tense due to the ongoing impeachment trial. We anticipate President Trump will use the address as an opportunity to highlight key victories while also discussing five key policy themes that will be central to his 2020 campaign.

The first theme will likely be to highlight several key economic wins that the Administration thinks will help average Americans; including the recently announced "Phase One" trade agreement with China, the passage of the USMCA and the overall strength of the economy.

The second theme will promote what the Administration believes they have done for working families; including highlighting support for paid family leave, expanding access to affordable childcare and workforce development initiatives.

The third focus will be on healthcare, where the President will likely call on Congress to work with him on lowering costs. We expect he will compare his vision for Medicare with proposals being floated by Democratic presidential candidates. We also expect Trump to discuss lowering the cost of prescription drugs, surprise medical billing and expanding transparency in the healthcare market.

The fourth theme will likely focus on immigration, where Trump will discuss the Administration's efforts to secure the southern border as well as immigration more broadly.

We expect the final theme will be national security, where the President will likely highlight the increase in defense spending under his Administration and update Congress on a number of national security matters.

Obviously, several of these themes will not be well received by congressional Democrats and tension will be especially high with the final impeachment vote set to happen the next day. We expect the address

will do more to show the current division between the two parties instead of serving as a unifying speech.

### **Upcoming Senate Floor Activity/Impeachment**

Following a critical vote on Friday that saw the Senate vote to reject motions to consider new witnesses and evidence in the President's impeachment trial, the Senate will return today to the final phase of the trial and the likely acquittal of the President. The impeachment trial will reconvene for closing arguments by the House managers and President's counsel for up to four hours. Following closing arguments, the Senate will adjourn the trial until 4pm on Wednesday when they will vote on the articles of impeachment. The Senate will be in morning business during the time between the conclusion of closing arguments and the votes on Wednesday, so we can expect continued statements on the impeachment trial.

While there is only speculation as to what the floor schedule will look like in the Senate following the conclusion of the impeachment trial, other items for potential consideration during February include Sen. Kaine's (D-VA) war powers resolution, the Borrower Defense Congressional Review Act (CRA) and of course, nominations. The Borrower Defense CRA resolution to disapprove of the rewritten borrower defense rule by the Department of Education is being led by Sen. Durbin (D-IL).

### **Senate Banking Committee Activity**

SBC heads into this February work period with some continued uncertainty. Much like January, the Senate impeachment process will influence their ability to hold hearings this first week back and creates some uncertainty for slotting in hearing activity later in the month. Assuming the impeachment process is wrapped up this week, we expect a nominations hearing as early as next week for Federal Reserve board nominees Judy Shelton and Christopher Waller. On February 12<sup>th</sup>, we expect the Committee to slot in Federal Reserve Chairman Powell for his semi-annual Humphrey-Hawkins testimony, which follows his House testimony the day before. Other hearings to monitor in the medium term are an eventual hearing with CFPB Director Kraninger and a hearing and eventually a mark-up of legislation under its Urban Affairs jurisdiction, which includes programs related to mass transit like subways and buses.

Behind the scenes, SBC staff continues to work to reach a bipartisan agreement on BSA/AML reform and beneficial ownership legislation. It is our understanding that Chairman Crapo (R-ID) and Ranking Member Brown (D-OH) are getting very close to a bipartisan compromise that would hopefully keep the bipartisan authors of the Illicit Cash Act onboard. Should they finalize their agreement, the next step would be a public release of a discussion draft before an eventual mark-up. We also continue to monitor interest by the Chairman to make one last effort to put together a bipartisan legislative package of small capital formation measures. The items likely to be part of the discussions were part of a legislative-styled hearing by the Committee in early 2019.

### **Upcoming House Floor Activity**

The House is scheduled to take its first votes this week on Wednesday (after the State of the Union), where they will consider a number of suspension bills along with the Protecting the Right to Organize Act ("Pro Act"), Puerto Rico Disaster Relief Emergency Supplemental and a resolution to disapprove of the Administration's Medicaid Block Grant plan. After this week, the House will be in session for one

week before it adjourns for the President's Day recess. Following the recess, it is possible we could see a number of financial services bills considered under suspension.

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

HFSC continues to be active this work period with eight hearings on the schedule on issues that have been important to Chair Waters (D-CA) throughout her tenure as Chair. This week will see a continued focus by the Chair on setting the stage for moving legislation to establish a federal rate cap for consumer loans. Legislation was introduced late last year (the Veterans and Consumers Fair Credit Act – H.R.5050 and S.2833) to extend the Military Lending Act's 36% rate cap for consumer loans to all Americans, and two hearings are planned this month in HFSC to further explore this issue and why supporters of the bill believe such a cap is necessary. The first hearing on this is scheduled for Wednesday with academic and consumer group witnesses to testify and will be followed by a second part at the end of the month where industry witnesses reportedly will be invited. This week also will see an appearance by CFPB Director Kraninger on Thursday, and as mentioned above, HFSC will hear from Fed Chairman Powell next week. Waters and others also likely will continue to raise concerns about Community Reinvestment Act reform (discussed below), especially in an O&I subcommittee hearing regarding "astroturfing" later this week. The full HFSC schedule as of now is below:

- **Wednesday, February 5<sup>th</sup> (morning)** – Full Committee hearing entitled, "Rent-A-Bank Schemes and New Debt Traps: Assessing Efforts to Evade State Consumer Protections and Interest Rate Caps." (*Part 1*)
- **Wednesday, February 5<sup>th</sup> (afternoon)** – Housing, Committee Development and Insurance Subcommittee hearing entitled, "A Future Without Public Housing? Examining the Trump Administration's Efforts to Eliminate Public Housing."
- **Thursday, February 6<sup>th</sup> (morning)** – Full Committee hearing entitled, "Protecting Consumers or Allowing Consumer Abuse? A Semi-Annual Review of the Consumer Financial Protection Bureau." (*with CFPB Director Kraninger*)
- **Thursday, February 6<sup>th</sup> (afternoon)** – Oversight and Investigations Subcommittee hearing entitled, "Fake It Till They Make It: How Bad Actors Use Astroturfing to Manipulate Regulators, Disenfranchise Consumers and Subvert the Rulemaking Process"
- **Tuesday, February 11<sup>th</sup> (morning)** – Full Committee hearing entitled, "Monetary Policy and the State of the Economy." (*with Fed Chair Powell*)
- **Wednesday, February 12<sup>th</sup> (morning)** – Diversity and Inclusion Subcommittee hearing entitled, "A Review of Diversity and Inclusion at America's Large Banks."
- **Wednesday, February 12<sup>th</sup> (afternoon)** – Artificial Intelligence Task Force hearing entitled, "Equitable Algorithms: Examining Ways to Reduce AI Bias in Financial Services."
- **Wednesday, February 26<sup>th</sup>** – Full Committee hearing entitled, "Rent-A-Bank Schemes and New Debt Traps: Assessing Efforts to Evade State Consumer Protections and Interest Rate Caps (*Part 2*)."

### **Regulatory Agenda**

The end of January turned out to be a busy one for major rulemakings in the pipeline and previewed what we might see heading into the rest of Quarter 1. On January 30, the Volcker agencies (the Federal Reserve, Federal Deposit Insurance Corporation (FDIC), Office of the Comptroller of the Currency (OCC), Securities and Exchange Commission (SEC), and Commodities Futures Trading Commission (CFTC))

proposed a rule on the remaining portions of the Volcker Rule reform – covered funds. Initial reactions indicate the proposal is being well received by industry stakeholders. Similarly, the Federal Reserve finalized a rule that finally puts some reform and structure around its bank control analysis. The Federal Reserve’s approach to the control analysis has always been a black box, and industry is still digesting the benefits of the final rule.

On the housing front, CFPB Director Kraninger sent a letter to a bipartisan group of Senators related to next steps on the QM Patch and ability to repay (ATR) reforms. Kraninger indicated the QM patch is likely to receive a short-term extension to avoid market disruption. Additionally, she tipped her hand that a pricing threshold is likely to be the core component of the ATR reforms. We continue to believe the Bureau will work to complete a proposed rule by the end of Q1 as it is such a major component of housing finance reform. Similar to the QM rule, we are closely monitoring developments by the Federal Housing Finance Agency (FHFA) to re-propose its enterprise capital rule and for Treasury/FHFA to release another amendment to the Preferred Stock Repurchase Agreement. We continue to believe stakeholders will see activity in Q1 on this front.

Finally, the Community Reinvestment Act reform is likely to take up considerable time on the regulatory and legislative fronts. In January, HFSC Chair Waters kicked-off her aggressive oversight of the reform, and the Committee is expected to continue to push back on the OCC and FDIC efforts. On the regulatory front, the OCC and FDIC have their hands full as industry stakeholders seem to be all over the map in how they view the proposal. Positions are driven by idiosyncratic factors such as product lines, geographic footprint, and comfort with the old system, which will make the work to address comments challenging.

## **International**

### *USMCA*

President Trump signed the USMCA in late January, replacing the Clinton-era NAFTA and fulfilling one of his 2016 campaign promises. Mexico already ratified the trade agreement this past December, leaving Canada as the last signatory to do so. However, the changing political landscape to the north could complicate its prospects. Canadian Prime Minister Justin Trudeau won re-election last October, but his Liberal Party lost its parliamentary majority in the House of Commons. This means that in order to ratify USMCA, Trudeau will have to work with opposition parties that have been critical of elements of the deal. The process is likely to take months, but our expectation remains that USMCA will be ratified in 2020. In addition, we expect legislation to be introduced as early as this week for the Canadian Parliament’s consideration. The trade agreement does not come into force until 90 days after the last country ratifies the deal.

### *China*

The U.S. and China signed their [“Phase One” trade agreement](#) in December, which held off U.S. tariffs in exchange for China purchasing \$50 billion in U.S. agricultural goods and opening its financial sector, as well as establishing some protections against intellectual property theft and addressing currency and foreign exchange issues. The deal also nearly halves the duty rate on \$120 billion of Chinese goods that were subjected to tariffs in September, rather than eliminating the tariffs entirely. There is no concrete timeline for a “Phase Two” deal – National Economic Council Director Larry Kudlow has indicated that any future negotiations would depend on how implementation of the “Phase One” deal goes, while President Trump said he wants to start negotiations “right away” but that they might not finish until after the elections in November.

Our view remains bearish that without further positive developments, the U.S. and China are unlikely to reach a long-term, comprehensive agreement to resolve the trade war before Election Day. Given the slow pace of progress over a “Phase One” agreement that only deals with a limited scope of issues and does not include the more controversial and structural provisions like state-owned enterprise reform, we believe it will be difficult for the two countries to actually come to an agreement that both sides view as a win. Notably, both Democrats and Republicans appear to be increasingly hawkish against China, making this one of the few bipartisan issues in Washington. If a Democrat wins the presidency in 2020, we still expect a hardline stance against China to continue, though with a greater focus on human rights violations and multilateral engagement with U.S. allies. Ultimately, the “Phase One” deal is a positive for the Trump administration and, combined with the expected ratification of USMCA, provides U.S. agricultural and manufacturing sectors more confidence that they are protected from trade risk going into 2020.

### **Political**

Tonight marks the official start of the caucus and primary season. Finally. Caucus participants in Iowa will go to one of 1,678 precincts, held at school gyms, libraries, churches, community centers, union halls, etc. across the state (not to mention satellite caucuses in other states and at three international locations for Iowa citizens not at home) to choose delegates who will support a particular democratic presidential candidate. There’s always the potential that there will be confusion and that the winner might not be known by the end of the night, but these caucuses have been decent predictors of who will win the nomination on the Democratic side. In six out of the last ten contested races, the candidate who has won in Iowa has been the nominee – Carter, Mondale, Gore, Kerry, Obama and Hillary Clinton. Outside of this, the caucuses have helped to thin the field – aside from Bill Clinton in 1992, against home state Iowa Sen. Harkin, the eventual nominee has finished in the top three spots. We won’t make any predictions here, but if you believe the recent polls, VP Biden and Sen. Sanders (VT) appear to be the frontrunners in the state. Regardless, with contests throughout the month in New Hampshire, Nevada and South Carolina, followed by Super Tuesday on March 3<sup>rd</sup> and another seven states voting the following week on March 10<sup>th</sup> we *may* have a better idea of the Democratic nominee in the next month. And if not, everything will truly be up in the air as we inch closer to the July Democratic Convention in Milwaukee.