

March 2, 2020



The Imperial March

Coming in like a lion, March 2020 promises to move the ball somewhere on the Democratic presidential process with Super Tuesday tomorrow followed by 13 other elections the rest of the month. Aside from the political theater, the unsettling specter of the coronavirus has begun to cast its shadow over Washington with supplemental funding to deal with the growing outbreak expected in the House and then possibly the Senate this week. Both chambers are in the middle of a three-week work period (was it just last month that we were dealing with an impeachment trial?) with a week break in the middle of the month coinciding with St. Patrick's Day and then a two week work period before the traditional Spring recess in April. Congress will continue to follow through regular order as best that it can, with full hearing schedules on both sides of the Hill, including appearances by Trump Administration officials as part of the Administration's FY21 budget proposal and the appropriations process, three House Financial Services Committee (HFSC) hearings focused on Wells Fargo and testimony from Consumer Financial Protection Bureau (CFPB) Director Kraninger and Comptroller Otting in Senate Banking. We cover these and other issues below in a brief preview of 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/Budget

The appropriations process has kicked into full gear following the release of the President's budget last month. We have seen and will continue to see several Cabinet-level officials appear in front of both their authorizing committees and the corresponding appropriations committees to justify their budget requests. This week, Treasury Secretary Mnuchin is slated to appear before the House Ways and Means Committee on Tuesday and the House Appropriations Financial Services and General Government Subcommittee on Wednesday. In addition, several other officials are scheduled to appear before both the House and Senate Appropriations Committees, and while slated to testify on spending numbers, the officials will also get questioned on major policy issues. Along with these hearings, many of the House Appropriations Subcommittees will begin to accept funding/language requests in the coming weeks. We understand that the House Appropriations Committee wants to move at a relatively fast pace and could begin to markup bills as soon as next month. Unsurprisingly, we think the Senate will move through its process at a slower pace.

Senate Banking Committee Activity

The Senate Banking Committee (SBC) kicks off March with a fairly full agenda comprised of a mass transit program hearing, votes on Federal Reserve nominees, and regulatory oversight hearings with CFPB Director Kraninger and OCC Comptroller Otting. This week, the Committee will continue its recent focus on the mass transit portion of its jurisdiction with a hearing on threats posed by state-owned and supported enterprises. This is the second hearing in a row on mass transit and Chairman Crapo (R-ID)

and Ranking Member Brown (D-OH) are working on bipartisan surface transportation reauthorization legislation. This week also could see votes on Federal Reserve nominees Judy Shelton and Chris Waller. Late last week, Sens. Toomey (R-PA) and Shelby (R-AL), both of whom had previously expressed concern with these nominees, indicated they would be in a position to support them after additional meetings were held. This should allow both Shelton and Waller to move forward on a party line vote at a minimum.

Later this month, SBC will receive the semi-annual testimony of Kraninger. This CFPB hearing is likely to repeat history and be rather contentious. Democrats have made consumer protection a major part of their agenda and likely will criticize Kraninger for recent actions including severely limiting the use of the “abusive” standard in enforcement cases. Members on both sides will likely query her on the status of the “Ability to Repay” and Qualified Mortgage (QM) patch rewrite, and recent news on the Bureau’s intent to move forward with Sec. 1071 small business data collection.

Finally, SBC will cap off March with a hearing with Comptroller Otting. Otting missed Crapo’s traditional semi-annual oversight hearing with the prudential regulators last December and this month will stand before the Committee in another likely contentious hearing. Similar to his recent appearance in the House Financial Services Committee, Otting will face questions from members with Community Reinvestment Act (CRA) reform front and center. Democrats likely will focus their criticism on the ability for the new framework to assist underserved areas, and use criticisms cited by Federal Reserve Gov. Brainard as their central arguments. Republicans will be in an awkward position of trying to provide a Trump Administration appointee cover while identifying several challenges with the proposed regulations levied by banks across the size spectrum. While CRA will be the main focus, among other issues, we expect the recent Lending Club acquisition announcement to garner some attention as well.

BSA/AML/Beneficial Ownership

Based on our conversations, Chairman Crapo and Ranking Member Brown have been working aggressively over the past two weeks to finalize a few remaining policy issues in their negotiations on BSA/AML reform and beneficial ownership legislation. It is our understanding a Crapo-Brown discussion draft could emerge as soon as this week. We expect the draft to reflect some changes to assist certain constituents, such as the real estate industry and small business. However, we do not expect the changes to be enough to neutralize the National Federation of Independent Business, the small business association who vocally opposed a similar legislative effort in the House. Crapo and Brown are cognizant of the need for a very bipartisan vote in SBC to ensure Senate floor time. As a result, the discussion draft is likely to be vetted with the Illicit Cash Act (S. 2563) sponsors in advance to ensure the group of supporters remains intact. Based on past practice, we expect SBC to mark-up the text within a short period of time once it’s released.

Senate Floor

Today, the Senate is set to vote on the motion to proceed to a bipartisan energy package unveiled by Sens. Murkowski (R-AK) and Manchin (D-WV) last week. While the amendment process is unclear, Senators will begin filing amendments early next week. The Senate also is expected to take up the coronavirus supplemental (discussed below) once it clears the House (as soon as this week). In addition to continued work on nominations, the Senate potentially could consider the extension of expiring Foreign Intelligence Surveillance Act (FISA) provisions. Also potentially on the docket is consideration of the Borrower Defense CRA in the coming weeks.

House Financial Services Committee (HFSC) Activity

Chair Waters (D-CA) is following through on her promise to hold Wells Fargo's feet to the fire in HFSC with three hearings planned this month to focus on the bank. The fun for Wells begins next week with a hearing with their new CEO on March 10th followed by one the next day with members of the bank's Board of Directors and ends later in the month with an Oversight & Investigations Subcommittee hearing focused on the impact of the bank's "toxic culture" on its employees. HFSC also has March hearings planned on the use of credit-based insurance scores in auto insurance, digital currencies, LIBOR and an oversight hearing with Housing and Urban Development Secretary Carson, among others. We also expect HFSC to add a rescheduled hearing on "rent-a-banks" and interest rate caps, but the full schedule as of now is below:

- **March 4th (morning)** – Monetary Policy Subcommittee hearing entitled, "The Traffickers' Roadmap: How Bad Actors Exploit Financial Systems to Facilitate the Illicit Trade in People, Animals, Drugs, and Weapons."
- **March 4th (afternoon)** – Housing, Community Development, and Insurance Subcommittee hearing entitled, "Drivers of Discrimination: An Examination of Unfair Premiums, Practices, and Policies in the Auto Insurance Industry."
- **March 6th (Field Hearing in NYC)** – Financial Institutions Subcommittee hearing entitled, "Modern-Day Redlining: the Burden on Underbanked and Excluded Communities in New York."
- **March 10th** – Full committee hearing entitled, "Holding Wells Fargo Accountable: CEO Perspectives on Next Steps for the Bank that Broke America's Trust."
- **March 11th** – Full Committee hearing entitled, "Holding Wells Fargo Accountable: Examining the Role of the Board of Directors in the Bank's Egregious Pattern of Consumer Abuses."
- **March 24th (morning)** – Full Committee hearing entitled, "An Examination of Secretary Carson's Efforts to Undermine Affordable Housing in America."
- **March 24 (afternoon)** – Monetary Policy Subcommittee hearing entitled, "A Review of Domestic and International Approaches to Digital Currencies."
- **March 25 (morning)** – Capital Markets Subcommittee hearing entitled, "The End of LIBOR: Transitioning to an Alternative Interest Rate Calculation for Mortgages, Student Loans, Derivatives, and Other Financial Products."
- **March 25 (afternoon)** – Oversight and Investigations Subcommittee hearing entitled, "Holding Wells Fargo Accountable: Examining the Impact of the Bank's Toxic Culture on Its Employees."

House Floor

With two weeks of work before the March recess week, the House is expected to take up a number of financial services bills on suspension, a bill to provide full collective bargaining rights to TSA workers and the coronavirus supplemental (discussed below). Other items expected in March are the NO BAN Act, which limits the President's authority to suspend or restrict aliens from entering the US and terminates presidential actions in this regard, the Kaine War Powers Resolution and potentially the FISA reauthorization. Some FISA provisions are set to expire on March 15th, but the path forward remains unclear as some support a clean extension while others are seeking reforms.

Coronavirus

The coronavirus outbreak gripping the world for the past several weeks has so far infected more than 88,000 people, killed more than 3,000 (two in the US as of late yesterday), and has caused the stock market to drop the most in one week since the financial crisis as investors try to understand the virus's impact on global supply chains, demand and growth. President Trump appointed Vice President Mike Pence to lead the US coronavirus response amid growing concerns about its global spread, major selloffs in the stock market, and criticism over the Administration's handling of the public health crisis. Pence is expected to oversee a task force including Health and Human Services Secretary Alex Azar and Ambassador Debbie Birx, who has served as the US government's leader for combatting HIV/AIDS globally since 2014. Federal Reserve Chair Jay Powell has said the Fed stands ready to support the economy as needed, and health officials are warning that while the risk to any individual of contracting the virus is low that the public should expect that cases of the virus will spread throughout the country.

The Trump Administration sent an initial budget request of \$2.5 billion to combat the outbreak, though it seems likely congressional appropriators will end up approving between six and eight billion in additional funds. Lawmakers are working on an emergency funding package that would exceed the administration's original request, with Senate Minority Leader Schumer (D-NY) calling for \$8.5 billion and House Minority Leader Kevin McCarthy (R-CA) calling for \$4 billion.

Meanwhile, this past weekend the US began to see its first "community cases" of the virus with 88 cases confirmed in total overall with the number seemingly growing by the hour. With the latest reports of the first US deaths from coronavirus in Washington state, we continue to monitor how the Administration responds to the evolving crisis and whether Congress can approve a bipartisan emergency funding bill before the March 16th recess.

Trade

The Trump Administration released its 2020 trade agenda last Friday. It outlines: (1) the enforcement of its existing trade agreements; (2) priorities for World Trade Organization (WTO) reform; and (3) the prospective new trade agreements with the UK, EU and Kenya. First, the report emphasizes that the US will enforce commitments regarding USMCA, WTO, the China Phase One Agreement and the two trade agreements with Japan. On China, the Administration states that the US and China are committed to pursuing a Phase Two Agreement, listing the following as "key issues" – China's subsidization of its industries, overcapacity, disciplines on China's state-owned enterprises and cybertheft. On Japan, the report states that the US is looking for "a comprehensive agreement that addresses remaining tariff and non-tariff barriers and achieves fairer, more balanced trade."

Second, the report outlines how the US is working with other WTO members on e-commerce and digital trade initiatives, a multilateral fishing agreement, reforming the "special and differential treatment" for developing countries, and airing concerns with the WTO's Appellate Body. It also indicates that the US will continue to push for a close review of the WTO's budget, advocate for changes to allow for more plurilateral agreements, and wants WTO members to "fundamentally rethink tariffs and their role."

Third, the report defines its goals for new trade agreements with the UK (to address certain tariff and non-tariff barriers and agree on high-standard rules), EU (to eliminate EU barriers to its markets and a more balanced trade relationship), and Kenya (to negotiate reciprocal and mutually beneficial trade agreements, and for the agreement to serve as a model for other bilateral agreements in Africa). Finally, the report notes that USTR is monitoring legislative developments in countries related to digital services taxes and pushed back against "the implementation of unfair and discriminatory taxes on US

companies.” This trade agenda should be interpreted as forward-looking guidance as to what the Trump Administration hopes to achieve in trade for 2020.

Political

It’s finally here – Super Tuesday 2020 – where voters will cast their votes in 14 states (and caucus in American Samoa) for their preferred Democratic presidential candidate. With almost 1,350 delegates up for grabs and the impressive win by VP Biden in South Carolina still being digested, there are too many plausible potential results to detail here, so we won’t make any predictions except that for all of the ups and downs and momentum swings since the bungled Iowa caucuses, they pale in comparison to what the political pundits will attempt to take away from tomorrow (and we will provide our perspective on the outcomes when they become clear as well). But there will be no rest for the weary – at least for those who survive tomorrow (we saw Mayor Buttigieg and Steyer drop out after Saturday night’s results and historically Super Tuesdays have been followed by candidates withdrawing or suspending campaigns). Six more states have primaries next Tuesday followed by four more on St. Patrick’s Day, meaning that we should have a much better idea of where things look in the Democratic primary process by the end of the month. Going into April we therefore could know whether there are one or two true front runners and/or does the infamous brokered convention (meaning nobody has the requisite number of delegates to clinch the nomination) that we seem to talk about every four years (but hasn’t happened since 1952) become a realistic possibility. We remain at the ready to observe, analyze and provide perspective on this turbulent ride.