

June 29, 2020



July 2020

After this week, both the Senate and House are not scheduled to be back in Washington until the week of July 20th for a quick two-week work period before the August recess, but this schedule is very much subject to change. For example, the House could come back sooner and both chambers could stay into early August if necessary, especially to complete work on the next COVID-19 relief package. Regardless, the last two weeks of July promise to be very busy, especially with the prospects of a very small legislative calendar between then and the election. The House will take up appropriations bills along with the National Defense Authorization Act (NDAA), which is going through the Senate this week, and we expect there to be continued focus on CARES Act oversight, and again, movement towards the next relief package. Below, though, is a brief outlook of where we believe things stand heading into July in Washington.

Appropriations

The House and Senate Appropriations schedules could not be further apart, making it more likely in our minds that some form of continuing resolution will be necessary to keep the government funded at the end of the fiscal year. The House has an ambitious schedule for markups and floor consideration of legislation in both July and after the August recess. In the Senate, Appropriations markups have faced delays, and we have heard it is now unlikely the Committee will hold markups at all and instead will consider a measure produced by the Chair and Ranking Member. We also believe that much of the bandwidth will be taken by other priorities before the end of the fiscal year, such as CARES 2.0 and the NDAA, making it unlikely that leaders will be able to negotiate a spending package as well.

Senate Floor Activity

The Senate is expected to adopt the motion to proceed to the FY2021 NDAA later today. Following discussions over the weekend, we expect a substitute amendment that contains the Senate Armed Services Committee reported text plus a manager's package to be offered either this evening or tomorrow. The hope is that the Senate will be able to begin voting on amendments this week and can wrap up NDAA consideration before recessing for July 4th, although it could slip into the early part of the July 20th week. Last week, Senators Crapo, Brown, Warner, Cotton, Jones, Rounds, Menendez and Moran filed an amendment for the NDAA reflecting a bipartisan agreement on BSA/AML/Beneficial Ownership legislation. The amendment reflects changes made to address outstanding concerns of the Small Business Committee and the group is pushing for its inclusion in any final text. However, it is unclear whether Leader McConnell (R-KY) has agreed with the overall strategy and whether its inclusion will be successful as it will require broad bipartisan support. A number of amendments were also filed reflecting legislative recommendations made by the Cyberspace Solarium Commission Report and with regard to China.

Other potential items the Senate could consider during the July work period include nominations and the next COVID relief package (more below). It remains unclear whether the Senate will make another attempt at consideration of police reform legislation.

Senate Banking Committee Activity

The Senate Banking Committee (SBC) has one hearing scheduled leading up to the two-week July 4th district work period. The hearing, focusing on the digitization of money and payments, will take an expansive look at new innovations in value transfer, including noncash payment networks, nonbank private money, stablecoins, central bank digital currency and new potential regulatory charters. The committee intends for the hearing to be an educational exercise on a field that has seen rapid change over the past several years. Among the witnesses is former CFTC Chair Chris Giancarlo on behalf of his Digital Dollar Project.

Looking forward, we could see a markup scheduled on the BSA/AML/Beneficial Ownership legislation spearheaded by SBC Chair Crapo (R-ID) and Ranking Member Brown (D-OH) if the measure does not make it into the final NDAA language. We could also potentially see a date set for a hearing to consider either, or both, the nominations of Caroline Crenshaw and Hester Peirce to be SEC Commissioners.

House Floor Activity

When the House returns today, they will vote on H.J.Res 90, providing for congressional disapproval of the OCC's Community Reinvestment Act (CRA) rule, the "Protecting Your Credit Score Act of 2019" (H.R. 5332) and ACA stabilization legislation, the "Patient Protection and Affordable Care Enhancement Act" (H.R. 1425). The House will also take up H.R. 7301, the "Emergency House Protections and Relief Act of 2020", which was included in the HEROES Act, extending the eviction and foreclosure moratorium, providing \$100 billion for an emergency rental assistance fund, \$75 billion to create a homeowner assistance fund to help at-risk homeowners pay their mortgage property tax and property insurance, and \$11.5 billion for homeless assistance grants. The House will then turn to H.R. 2, the "Moving Forward Act", an infrastructure package of \$1.5 trillion that makes investments in sustainable infrastructure, schools, housing infrastructure, broadband, renewables, and reauthorizes the Surface Transportation program for five years.

Other items we could see on the floor in the House later in July include NDAA, the Great American Outdoors Act, and the NO BAN Act which imposes limitations on the President's authority to suspend or restrict aliens from entering the U.S. and prohibits discrimination in various immigration related decisions. We also anticipate that the House could move other core pieces of legislation that already passed as part of the HEROES Act as stand-alone measures.

House Financial Services Committee Activity

While the July Calendar is still coming together, it sounds like the House Financial Services Committee (HFSC) has another busy month on tap. We believe that most of the hearings scheduled will remain focused on the COVID-19 pandemic and accompanying response. Additionally, it is possible that CFPB Director Kraninger will be in front of the Committee as we expect that the CFPB Semi-Annual report will be released in the next few weeks. At this point, we do not believe that there will be a markup scheduled before the August recess, but that could change if the logistics can be figured out.

The Committee postponed June hearings on mortgage servicers and insuring pandemics, and it is possible that make-ups for these could happen this month – we believe that the mortgage servicer hearing is a higher priority and is more likely to be on the July schedule while pandemic insurance will likely slip until September. We also expect that Chair Waters and other committee Democrats will be focused on pushing for inclusion of their priorities in future COVID legislation as negotiations pick up towards the end of the month.

Other Legislative Activity

COVID-19 Relief

It has been three months since President Trump signed the CARES Act into law and a month and a half since the House passed the HEROES Act, but there has been little movement between the House, Senate and the Administration in even starting negotiations on a potential next COVID-19 relief package. There have been hints and signs over the past few weeks of the direction it could go, such as potentially more of a targeted focus on those who need help the most as well as measures to help spur economic growth, but nothing definitive. However, with the pandemic showing no signs of abating and some states that started to reopen either pausing or reversing course as infection levels spike, the belief that the country may not need an additional stimulus package is waning. We therefore expect to see more of a push on the next relief effort as we get into July with the expectation that serious negotiations will begin in the latter half of the month, likely the week of July 20th. President Trump has also signaled he would like to see another stimulus package, and we believe it is likely that something could get to the President's desk by early August.

Police Reform Legislation

Despite calls for quick action to address police misconduct in light of recent events, prospects for passing bipartisan legislation took a downturn following the playout in the Senate last week. Sen. Scott's (R-SC) bill, the JUSTICE Act, was ultimately blocked from advancing after falling short of the 60 required votes needed to officially begin the debate and amendment process. The GOP-backed measure saw support from Sens. Manchin (D-WV), Jones (D-AL) and King (I-ME) but received backlash from the majority of Senate Democrats who deemed the bill as "unsalvageable." Alternatively, the House passed their Democratic-led version of police reform legislation on a nearly party-line vote, but Leader McConnell (R-KY) has indicated he has no plans of advancing the bill in the Senate.

Looking forward, we believe the odds are low that Congress will pass legislation this summer. While there is some overlap between the Republican and Democratic bills and desire from both sides on passing legislation, the issue has quickly become political and we do not expect a compromise to be reached prior to the election in November.

Regulatory Agenda

Over the past few months, we have seen few major non-COVID regulations progress as regulators across the board have been narrowly focused on actions to provide relief in response to the pandemic. We anticipate this focus to begin to continue to slowly shift in July and on as we get closer to the election and reach deadlines on a number of extended comment periods – we got a glimpse of this last week with regulators addressing the long-awaited Volcker Covered Funds Rule, inter-affiliate swaps, Valid-When-Made Rule and the Qualified Mortgage (QM) Patch. We also expect to see a report this month from the Commodity Futures Trading Commission's (CFTC) Market Risk Advisory Committee on climate risk. With that being said, we still expect to see a large focus on relief action, as well as conversations around modifications to the Paycheck Protection Program (PPP) and Federal Reserve facilities. Also on that front, Treasury and SBA have agreed to disclose certain PPP borrower information requested by Congress, in an effort to provide additional transparency into the program.

Possibly the most newsworthy and controversial event among the regulators last month was the announcement of SEC Chair Clayton's potential nomination to be the U.S. Attorney for the Southern District of New York, although Clayton has yet to make an explicit statement on the nomination and

was unwilling to discuss his plans while testifying before the HFSC last week. We believe it is unlikely Clayton will see a Senate hearing in the near-term, as Judiciary Committee Chair Graham (R-SC) has indicated Clayton will first need the support of New York Senators Schumer (D) and Gillibrand (D), which is highly unlikely. In other movement at the SEC, Caroline Crenshaw has been officially nominated to fill a Democratic seat at the Commission. A hearing date has not been set for Crenshaw, but it is likely the Senate Banking Committee will schedule a single hearing to consider and confirm both Crenshaw and Hester Peirce, who was also tapped for a second term, together.

International

Trade

The USMCA enters into force on Wednesday, though two issues have been raised about its implementation. Many Democrats have expressed concern about the enforcement of Mexico's domestic labor reforms, particularly around collective bargaining agreements, though US Trade Representative Robert Lighthizer assured them that all necessary steps were being taken to ensure the deal's successful implementation and committed to taking action as needed via the Rapid Response Labor Mechanism and state-to-state dispute settlements. On the other hand, the Trump administration is reconsidering tariffs on Canadian steel and aluminum over concerns about rising exports to the US. It is unclear the extent to which these issues will affect USMCA going into effect this week, though we expect the trade deal to ultimately move forward at this time.

China / Hong Kong

Despite the major escalation of US-China relations in May (e.g. Secretary Pompeo certifying that Hong Kong is no longer autonomous from China, the White House press conference announcing several actions), all indications point to China moving forward to implement its Hong Kong national security law. We expect the National People's Congress to vote on and pass the law before Wednesday, and for this issue to be the focus of the House Foreign Affairs hearing later this week. It is unclear how the Trump administration plans to respond to this decision, but we are closely watching the various workstreams across the government and whether China-related riders are proposed as amendments to the NDAA. While we still do not believe the US-China Phase One trade agreement is under existential threat, the Wall Street Journal reports that Chinese officials are warning that crossing "red lines" could endanger the deal.

What to watch for:

- July 9th – SEC roundtable on the risks of investing in emerging markets, including China
- July 14th – Comment period ends for Commerce's Interim Final Rule to restrict foreign semiconductor manufacturers from selling American semiconductors to Huawei and its suppliers
- August 3rd – Presidential Working Group (PWG) on Financial Markets report on differing practices of Chinese companies listed on US financial markets is due. The memo directs the PWG to recommend actions for the executive branch, SEC, and PCAOB, including an SEC rulemaking to "set new listing rules or governance safeguards"

Political

July should be the last relatively quiet month on the campaign trail as we expect August to be extremely busy with Biden likely choosing his running mate early in the month (if not earlier) as well as the two conventions being held in some form. For now, we likely will continue to see personnel and policy announcements from the Biden campaign and an effort by the Trump

campaign to try and right the ship. And, remarkably, there are still several primaries in July in states such as Delaware, New Jersey and Louisiana. Additionally, on July 14th Republicans in Alabama will vote in the runoff between former AG Jeff Sessions and former Auburn football coach Tommy Tuberville to see who faces Sen. Jones (D-AL) in November. At some point in the next week, we also should see who won the Democratic primary in New York's 12th District between Oversight and Reform Chair Carolyn Maloney and challenger Suraj Patel. Maloney led Patel by just 648 votes after last week's election, but there reportedly are more than 30,000 absentee ballots to be counted, a process that won't start until Wednesday, July 1st.