

September 8, 2020



September 2020

What promises to be an eventful fall kicks off this week with the Senate coming back into town today for a scheduled five-week session followed by the House's return next week for a quick three-week work period. This week, the House has four "Committee Work Days" followed by the next three weeks in DC, so the two chambers are only scheduled to be in town together for nine legislative days this month. As we wait to see whether any form of COVID-19 relief/stimulus legislation comes together, other eyes will be on whether a reported agreement holds between House Speaker Pelosi (D-CA) and Treasury Secretary Mnuchin to pass a clean continuing resolution to fund the government past the end of the fiscal year (September 30th) and into December after the election. On COVID, the Senate is expected to attempt to move forward on a targeted relief package this week, and we will see if there continues to be little interest from Democrats on considering such limited measures. Overriding official activities in Congress, of course, is the election as we are now just eight weeks away from November 3rd. The first debate between President Trump and Vice President Biden is scheduled for the end of this month on September 29th in Cleveland followed by two more and a vice presidential debate in October. And while nearly everything will continue to be viewed through the election lens, below is a brief outlook of where we believe things stand heading into September in Washington.

Appropriations

While much of the public debate during this work period will be focused on whether another COVID relief package is necessary, and, if so, what a package should look like, Congress will need to pass some sort of a funding bill to keep the government open past September 30th when current funding expires. As mentioned above, both Speaker Pelosi and Secretary Mnuchin have publicly said that they would support a clean continuing resolution (CR) to maintain current funding levels through sometime in early December. We don't believe that either party wants a government shutdown this close to a presidential election, but these funding bills are rarely as easy as they should be.

If the CR passes, it will take the prospect of a government shutdown off the table at a delicate point in the government's COVID-19 response. However, if either party tries to attach their COVID relief priorities to the CR, the process could get complicated. We still anticipate Congress will find a way to get a bill across the finish line, but the real funding battle will likely come in December, and the outcome of the election will dictate who has the most leverage.

Senate Floor Activity

The Senate comes back into session today (September 8th) to resume consideration of Brett Ludwig to be Judge for the Eastern District of Wisconsin. With coronavirus relief negotiations stalled, Senate Republicans plan to move forward their own "skinny" bill coalescing around a much lower number than the \$3 trillion passed by the House in May. The bill is expected to pass the Senate along party lines while Republicans attempt to paint their Democratic counterparts as obstructionists attempting to score political points ahead of the election instead of targeting the economic fallout caused by the virus. Likewise, Democrats see the "skinny" bill as wholly

insufficient and lacking in important policy measures to help those impacted most by the pandemic. Additionally, we anticipate to see negotiations resume between the Senate and House on the National Defense Authorization Act (NDAA) but it still remains unclear at this point when exactly Congress will vote to go to conference, meaning the measure could get punted into October or even potentially the lame duck session.

Senate Banking Committee (SBC) Activity

The Senate Banking Committee looks to have a short fall schedule but will continue to focus on COVID response hearings and regulatory oversight. This week, the Committee will conduct a hearing with academics and industry representatives to focus on the Federal Reserve's lending facilities. We also anticipate SBC will follow the House Financial Services Committee this month and receive the quarterly CARES Act testimony of Federal Reserve Chairman Powell and Secretary Mnuchin. Beyond these hearings, we believe it is possible the Committee could slot in a nomination hearing with likely OCC Comptroller nominee Brian Brooks.

On the legislative front, the calendar is winding down and SBC is unlikely to deviate from its posture of working with the broader Senate on legislation necessary for the COVID response. One area that will remain active in September and into the fall is the Committee's role in the NDAA conference as they work to address the House NDAA text that included BSA/AML reform and beneficial ownership language. This continues to be a top priority of Chairman Crapo (R-ID) and Ranking Member Brown (D-OH).

House Floor Activity

The House comes back into session next week, kicking off what is shaping up to be a busy couple of weeks before the House returns to their districts through the election. When Members return next week, the House will consider the Strength in Diversity Act and the Equity and Inclusion in Education Act, as well as the Pregnant Workers' Fairness Act and a resolution condemning discrimination against Asian Americans. The following week, the House is expected to turn to the MORE Act, legislation that decriminalizes marijuana at the federal level, and potentially the Intelligence Authorization Act. However, much of September will continue to focus on whether or not another COVID relief and stimulus package can come together, a continuing resolution and extension of the National Flood Insurance Program (NFIP) and the surface transportation reauthorization.

House Financial Services Committee (HFSC) Activity

The House Financial Services Committee has a fairly robust schedule for the month with several hearings related to the COVID-19 crisis. Starting it off this afternoon, however, is a hearing in the Diversity and Inclusion Subcommittee focused on Offices of Minority and Women Inclusion at several different federal agencies. Later in the week on Thursday, the full committee will hear from several governors on the need for additional financial aid for states and territories for COVID-19 relief. Below is the rest of the planned schedule for the month at HFSC:

- September 16th – Full Committee virtual hearing entitled, “Prioritizing Fannie’s and Freddie’s Capital over America’s Homeowners and Renters? A Review of the Federal Housing Finance Agency’s Response to the COVID-19 Pandemic.” *Note – Federal Housing Finance Agency Director Calabria expected to testify.*

- September 17th – Subcommittee on Investor Protection, Entrepreneurship, and Capital Markets virtual hearing entitled, “Insider Trading and Stock Option Grants: An Examination of Corporate Integrity in the Covid-19 Pandemic.”
- September 22nd – Full Committee hybrid hearing entitled, “Oversight of the Treasury Department’s and Federal Reserve’s Pandemic Response.” *Note – Mnuchin and Fed Chair Powell expected to testify.*
- September 24th – Subcommittee on National Security, International Development, and Monetary Policy hybrid hearing entitled, “An Examination of the Administration’s Implementation of Statutory Reforms to the Committee on Foreign Investment in the United States.”
- September 29th – Task Force on Financial Technology virtual hearing entitled, “License to Bank: Examining the Legal Framework Governing Who Can Lend and Process Payments in the Fintech Age.”

Regulatory Agenda

The rulemaking agenda will continue into September as agencies attempt to check off remaining outstanding agenda items prior to the November elections. For example, following the Senate confirmations of Hester Peirce and Caroline Crenshaw, which provided the Securities and Exchange Commission (SEC) with a full slate of Commissioners for the first time since February, they moved forward to consider longstanding changes to the accredited investor definition. Senate Banking Chairman Crapo has also called on the SEC to finalize rules on the shareholder proposal process and the harmonization of exempt offerings. Looking forward, the Commission plans to consider such changes to the shareholder proposal process this month, and we also anticipate a recommendation on changes to the investment advisory advertising rule in late September or October.

We expect to see the highly anticipated report on climate change-related financial risks and markets released by the Commodity Futures Trading Commission’s (CFTC) Market Risk Advisory Committee in the coming weeks. The report will assess financial challenges related to climate-change and provide policy solutions related to stress testing, governance, risk assessment and disclosure. Also in late September, LabCFTC will hold its first of three “Empower Innovation 2020” events designed to consider the role of fintech and innovative technologies both during and post-pandemic.

Additionally, a focus on pandemic relief will remain, and we anticipate continued conversations around modifications to the Paycheck Protection Program (PPP) and Federal Reserve facilities to attempt to provide more specifically-targeted stimulus relief (if such a stimulus comes together) to those individuals and small businesses hit the hardest.

China

We expect US-China relations to continue to be a major issue for the presidential election, particularly as President Trump seeks to shift blame for the coronavirus. Meanwhile, the steady escalation of tit-for-tat moves are likely to continue across all strategic fronts, including semiconductor export controls, capital markets, the sale of TikTok, military activity in the South China Sea, and Hong Kong, and we still expect the FY21 NDAA to be the most likely path forward for delisting legislation to become law. The Phase One trade agreement remains one of the few bright spots in the US-China relationship; after a meeting of the principals was indefinitely postponed at first, they met on August 24th to acknowledge progress and commit to “taking the steps necessary to ensure the success of the agreement.” Notably, Chinese regulators have continued to expand access to their financial markets to US financial institutions despite worsening political tensions between the two countries.

Political

We won't opine in this document on the current state of the presidential election except to say that it is tight and will again come down to several battleground states (and anyone who says they know what will happen is just guessing). And who knows what these next two months could bring in terms of an October surprise (vaccine?) or other developments as we continue to absorb mail-in voting discussions and how long it will take to actually know who has won. As official campaigning continues with large political rallies still questionable in the pandemic climate, the official debates will receive considerable attention when they begin on September 29th at Case Western Reserve in Cleveland. This first debate will be followed by one between Vice President Pence and Sen. Harris on October 7th then two more between Trump and Biden on October 15th and 22nd. Must watch TV indeed. Other than the presidential election, we will continue to pay attention to the key Senate races and the potential for Democrats to regain the majority, but that again is very tight and dependent on many of the same factors (turnout, mail-in voting, current state of the economy, the pandemic, etc.) that will determine who occupies the White House next year. We will update as we move through these next two months and are available for deeper discussions on all aspects of Election 2020 as needed.