

RICH FEUER ANDERSON

July 2021 Outlook

July 19, 2021

OVERVIEW	<p>It is crunch time in Washington with only a few weeks before Congress is set to break for the month-long August recess. With infrastructure talks still underway, both Senate Majority Leader Schumer (D-NY) and House Speaker Pelosi (D-CA) have prepared their caucuses to work through the nights and weekends until the details surrounding both a bipartisan infrastructure bill and a budget resolution are hashed out and the two proposals can be brought forward for votes. It is still unclear whether the Senate will be able to advance infrastructure legislation prior to the August recess. Numerous challenges remain, and the possibility of a delayed, modified or cancelled August recess looms as Congress sets out to achieve these major legislative goals, while also juggling additional priorities of the Biden agenda (i.e. voting rights, police reform, cybersecurity, antitrust). While infrastructure reform has taken center stage in DC, both the Senate and House are scheduled to make headway on other annual spending measures including the National Defense Authorization Act (NDAA) and appropriations funding, as well as continuing to tick through confirmations of Biden nominees.</p>
INFRASTRUCTURE/ DEBT CEILING	<p>Infrastructure will continue to dominate the headlines over the coming weeks after deals were struck on a \$1.2T bipartisan framework and a \$3.5T Democratic budget resolution. President Biden has kept pressure on Congress to pass both a bipartisan deal focused on “hard” infrastructure (i.e. roads, bridges, airports, rail, and broadband), and a partisan spending bill that encompasses Democratic priorities considered “human” infrastructure (i.e. housing, health care, child care, free education). While the assumed deadline to enact infrastructure legislation is September 30th (the expiration date for the highway and surface transportation funding bill and FY2021 government funding), politics and limited floor time will continue to create challenges for Congress to reach this marker. That said, Majority Leader Schumer is expected to attempt to hold a vote on the budget resolution alongside the bipartisan infrastructure proposal during this work period, but prospects for passage still remain unclear.</p> <ul style="list-style-type: none"> • Key elements of the \$1.2T bipartisan framework include \$156B for rail, public transit, airports, and ports, \$128B for water and power grids, \$109B for roads and bridges, \$65B for broadband and \$47B for weather mitigation and resiliency projects. Not included are investments in “human infrastructure,” or any tax increases. The proposal includes \$579B in new spending and would be primarily funded through the repurposing of unspent COVID relief funds. While there had been agreement to also bolster IRS’s tax auditing and enforcement capabilities, this pay-for recently fell out of the discussions. • Senate Democrats also agreed on an additional \$3.5T budget resolution last week, providing the framework for a second infrastructure package that would advance through reconciliation and along party lines. The spending plan includes investments in “human infrastructure” including paid leave, childcare and free education, initiatives to combat climate change, extending the child tax credit and expansions to Medicare coverage for vision, dental and hearing. President Biden has proposed funding the plan through tax increases on wealthy individuals and corporations, as well as an increase to the capital gains tax rate, although the details around pay-fors are still being hashed out. The budget plan does not have GOP support, meaning it will require backing of the entire Senate Democratic caucus to pass by a simple majority. Using the reconciliation process, Schumer will have to ensure the support of moderate Democrats, including both Sens. Manchin (D-WV) and Sinema (D-AZ) who have been wary of the size of

	<p>the package (prefer spending closer to \$2T) and the scope of the pay-fors, before bringing the bill for a vote.</p> <ul style="list-style-type: none"> • If both proposals are advanced by the Senate prior to the upcoming recess, relevant committees will then spend much of August negotiating terms and drafting their components of the packages. Timing in the House could further delay things, as Speaker Pelosi says she will not hold a vote on the bipartisan infrastructure measure until the Senate also advances the Democratic reconciliation proposal. She has also indicated the House plans to make changes to the proposed \$3.5T spending plan prior to consideration. • Further complicating things, Congress will also have to vote to either raise or suspend the federal borrowing limit which will expire on July 31st. Secretary Yellen continues to call for swift action, warning that funding levels will deplete more quickly than in previous years as a result of unprecedented federal spending related to pandemic relief. Yellen is scheduled to meet with the Senate Republican Steering Committee this week to discuss the debt ceiling deadline.
<p>SENATE ACTIVITY</p>	<p>While most of the attention in the Senate will be on infrastructure reform and the related tax policy debates, Committees will continue work on other pressing issues including the annual defense policy bill, the National Defense Authorization Act (NDAA), and a number of appropriations measures.</p> <ul style="list-style-type: none"> • The Senate Armed Services Committee will begin marking up the FY2022 NDAA this week. The series of markups will begin today in the Subcommittees on Cybersecurity and Strategic Forces, with six additional Subcommittee markups to follow later in the week. The full Committee is scheduled to mark up the full NDAA bill on Thursday in a closed session. • Senate appropriations Chair Leahy (D-VT) has not yet released an FY22 appropriations mark-up schedule, but the committee could begin to consider some of the less controversial bills towards the end of July. • Sen. Scott (R-SC), Sen. Booker (D-NJ), Rep. Bass (D-CA) and other bipartisan members are also continuing efforts on police reform legislation. The group is working to draft language to enact the legislative framework agreed upon in late June, and Senator Scott marked July as the new deadline for advancing a bill through the Senate. That said, several sticking points remain, including the contentious qualified immunity issue, so consideration of a proposal prior to the recess is unlikely.
<p>HOUSE ACTIVITY</p>	<p>The House will return to legislative work this week and will remain in session until the August recess. The Chamber will remain in a holding pattern on infrastructure legislation awaiting Senate action and could extend the work session into August to pass both bills assuming they are advanced by the Senate in July. Majority Leader Hoyer (D-MD) will also likely continue efforts to advance voting rights legislation (H.R. 4).</p> <ul style="list-style-type: none"> • Like the Senate, the House will ramp up efforts on marking up NDAA legislation in July. The House Armed Services Committee will begin marking up their NDAA legislative drafts in each of the Subcommittees beginning next week, which will push consideration of the full NDAA bill until after the recess (expected on September 1st). • The House Appropriations Committee concluded markups and amendment processes for its FY2022 spending bills last week. Leader Hoyer announced that the House will begin to take up spending bills next week, starting with combining Labor-HHS-Education; Agriculture and Rural Development; Energy and Water; Interior; Military/Veterans Affairs; Transportation-HUD; and Financial Services and General Government, into one package. Other spending bills may be considered this work period as well. • Additionally, we understand the House will take up the Consumer Protection and Recovery Act, which would reinstate the FTC's authority to obtain monetary relief for defrauded consumers. The House will also take up legislation to expedite the visa process for certain Afghan refugees (the ALLIES Act) and a bill to improve American's drinking water (the PFAS Action Act).

<p>SENATE BANKING COMMITTEE</p>	<p>SBC will hold five additional hearings during the work period before departing for the recess. The various hearings will focus on regulatory oversight, pandemic insurance, climate change, federally assisted housing, and a federal interest rate cap proposal.</p> <ul style="list-style-type: none"> • The Securities, Insurance and Investment Subcommittee will hold a hearing on addressing future pandemic risk, which will explore various proposals to address pandemic insurance issues. We expect the hearing will have a similar witness panel as last year’s HFSC hearing on the matter, which included industry and trade association representatives and an economist. The Pandemic Risk Insurance Act (PRIA) will likely receive attention, although we do not believe it will be touted as a solution in the hearing. • The Committee will hold a hearing to discuss legislation to set a national interest rate cap of 36%, a proposal led by Senator Reed (D-RI) and supported by SBC Chair Brown (D-OH). Additionally, SBC will hold a regulatory oversight hearing, a hearing focused on climate change and resiliency efforts, including a from the reinsurance perspective, as well as a nominations hearing. We understand this could include the consideration of Julia Gordon to be FHA Commissioner, and Dave Uejio to be an Assistant Secretary at HUD. Uejio will continue in his role as Acting CFBP Director until Rohit Chopra is confirmed by the Senate. • Finally, we anticipate the SBC will formally discharge the nomination of Rohit Chopra to free up a possible Senate floor vote for his CFPB Director nomination before the August recess. The SBC has been surprisingly slow to date to discharge, but recent intel suggests likely action soon. • Last week, SBC held a nominations hearing for Arun Venkataraman to be Assistant Secretary of Commerce and Director General of the US and Foreign Commercial Service, and Damon Smith to be General Counsel of HUD. We expect each nominee will be confirmed with some bipartisan support in the fall.
<p>HOUSE FINANCIAL SERVICES COMMITTEE</p>	<p>Despite the House only being in session for two full weeks in the month of July, Chairwoman Waters (D-CA) scheduled eight hearings and a full committee markup for the July work period, three of which occurred last week.</p> <ul style="list-style-type: none"> • HFSC will begin this week with an oversight hearing for the Department of Housing and Urban Development (HUD). This will be HUD Secretary Marcia Fudge’s first time testifying before the Committee since confirmed, and we expect she will provide an update on the Department’s efforts to address housing affordability and homelessness. We expect she will also be questioned about the FHFA’s agenda under new leadership, efforts to protect consumers amid the expiring foreclosure and eviction moratoria, the inclusion of housing provisions in the infrastructure package, and various HUD regulations like Affirmatively Furthering Fair Housing, Disparate Impact, and Equal Access. The hearing also includes fifteen housing-related legislative proposals. • The remainder of the month consists of Subcommittee-level hearings focused on a variety of priority issues for Chairwoman Waters (D-CA). First on the docket is a hearing focused on efforts to expand financial inclusion, which we expect could see discussions on issues including cryptocurrency, CBDC, postal banking, Fed Accounts, Community Reinvestment Act and True Lender, among others. Also on the docket is a hearing to examine bond rating agencies, led by Capital Markets Subcommittee Chair Sherman (D-CA) who has been a long-time critic of rating agencies and their business model. The Monetary Policy Subcommittee, led by Chair Himes (D-CT), will then hold another hearing to explore the idea of a U.S. central bank digital currency (CBDC). • HFSC has scheduled a mark-up for July 28th where some SEC and capital markets-related legislation related to GameStop, Archegos, and LIBOR, among others, are expected to be considered. • The full slate of hearings for the remainder of the month is below: <ul style="list-style-type: none"> ○ July 20th: Full Committee hearing entitled, “Building Back A Better, More Equitable Housing Infrastructure for America: Oversight of the Department of Housing and Urban Development.”

	<ul style="list-style-type: none"> ○ July 21st: Subcommittee on Consumer Protection and Financial Institutions hearing entitled, “Banking the Unbanked: Exploring Private and Public Efforts to Expand Access to the Financial System.” ○ July 21st: Subcommittee on Investor Protection, Entrepreneurship, and Capital Markets hearing entitled, “Bond Rating Agencies: Examining the “Nationally Recognized” Statistical Rating Organizations.” ○ July 27th: Subcommittee on National Security, International Development, and Monetary Policy hearing entitled, “The Promises and Perils of Central Bank Digital Currencies.” ○ July 27th: Subcommittee on Housing, Community Development, and Insurance hearing entitled, “NAHASDA Reauthorization: Addressing Historic Disinvestment and the Ongoing Plight of Freedom in Native American Communities.” ○ July 28th: Full Committee Markup.
REGULATORY AGENDA	<p>With most of President Biden’s nominees to head the agencies having been confirmed (OCC, CFPB, CFTC, and FHFA being exceptions), we expect the pace of rulemaking to accelerate in Q3 and Q4 of this year and culminate in several rules being proposed around the fall timeframe.</p> <ul style="list-style-type: none"> • At the SEC, rulemaking on mandatory ESG disclosures on climate risk and human capital appears to be the top priority, with a proposal potentially around October. We expect other priorities for the Commission to include equity market structure (as it relates to GameStop-related issues), Rule 10b5-1, and digital assets. • The CFPB’s top rulemaking priorities include implementing a new mortgage foreclosure process, small business data collection, or Section 1071 of Dodd Frank (proposed rule expected September 2021), and consumer access to financial data, or Section 1033 (next pre-rule stage expected April 2022). The latter was specifically referenced in the Executive Order on competition - more below. Additionally, we expect the CFPB to begin ramping up enforcement matters with a priority focus on consumer treatment during the COVID pandemic. • HUD Secretary Fudge has already taken steps to undo certain Trump-era regulations. First, HUD issued an interim final rule to restore the 2015 Affirmatively Furthering Fair Housing rule and is expected to expand it through a separate rulemaking. Second, HUD issued a proposed rule to reinstate the 2013 Disparate Impact rule. Both are expected to progress in the coming months and will face scrutiny from Republicans when Secretary Fudge appears before the House Financial Services Committee on July 20th. • The FTC will hold a Commission meeting this week to consider a number of rules, including a review of whether to rescind a 1995 policy statement that allows for certain mergers and acquisitions agreements to occur without prior approval from the agency. This may potentially be the first action by the FTC to ramp up antitrust scrutiny under Chair Khan following President Biden’s recent Executive Order on Competition. • FinCEN is aggressively working to issue a Notice of Proposed Rulemaking related to the Corporate Transparency Act’s (CTA) beneficial ownership provisions. Under the CTA, which passed Congress last year, FinCEN has a short statutory implementation timeline. We anticipate release of the NPR at the end of this month or early August. • The FDIC, OCC, and Federal Reserve also working to finalize a rulemaking on computer security incidents. Given the increasing cybersecurity incidents and the financial sector operating as a critical infrastructure, the leadership of these agencies have prioritized this rulemaking and are increasing their focus on third-party relationship-related vulnerabilities.
BIDEN ADMINISTRATION	<p>Like in Congress, President Biden’s biggest priority heading into the August recess will be helping Democrats to pass the nearly \$5T in infrastructure investments in line with his Build Back Better agenda. We expect Biden will have a role in helping both Senate Majority Leader Schumer and Speaker Pelosi ensure sufficient support from within their party to advance the massive Democratic spending bill alongside any bipartisan infrastructure package. In addition to</p>

infrastructure, the Administration has increased its focus on both protecting the country from both domestic and foreign cyber threats, as well as on antitrust and promoting competition in large industry sectors.

- **Executive Order on Competition:** Biden's recent Executive Order (EO) includes 72 directives for federal agencies aimed at combating anti-competitive practices across industries including tech, banking, agriculture and pharmaceuticals. Notably, the EO does not mandate any specific requirements or policies for businesses at this point, but rather encourages action from federal regulators to review current rules and consider crafting new procedures and policy initiatives to address barriers to competition. This includes directing financial regulators to enhance scrutiny over bank mergers by December 2021 and encouraging the CFPB to begin rulemaking on Section 1033 of the Dodd Frank Act on consumer access to financial data. The EO sparked immediate action at both the FTC and DOJ who have already announced plans to review current merger guidelines, as well to crack down on Big Tech (this follows the passage of six antitrust-related bills in the House Judiciary Committee). The EO also established a new office within the White House focused on corporate competition, which will be led by NEC Director Deese.
- **Cybersecurity:** In response to the recent string of domestic and foreign cyber and ransomware threats, last week the Biden Administration announced the formation of a ransomware task force aimed at mitigating cyber threats and strengthening the country's cybersecurity defenses. The task force is directed to seek out initiatives to halt ransom payments made through cryptocurrency platforms, coordinate with allied nations that have taken similar actions, as well as partner with cyber insurance and critical infrastructure companies to help combat future attacks. The effort also includes formation of a new website operated by CISA, which will offer security guidance for small businesses, a "Reward for Justice" program that includes rewards as high as \$10 million for helping identify perpetrators, and a ransomware-focused conference hosted by FinCEN. Notably, Jen Easterly was confirmed by the Senate last week to lead the cybersecurity division at DHS, and will play a large role in the Administration's ongoing cyber efforts. Despite this action at the executive level, we still expect efforts to continue on mandatory cyber breach notification legislation in Congress.