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## February 2022 Outlook

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<p><b>OVERVIEW</b></p>	<p>Congress returns to Washington this week following a week-long recess and with another jam-packed agenda for the month. With no significant progress made in January toward passing the Administration’s big-ticket items – voting rights legislation and the Build Back Better Act – Democratic lawmakers will have to begin making some challenging decisions around what measures to continue to pursue and which may be best left behind. We don’t expect work on BBBA or election reform to conclude at this point, but efforts on other pending legislative issues (i.e., government funding, China competition bills, Russian sanctions legislation) may take precedent this month, and other external distractions (i.e., the Omicron variant surge, inflation, supply chain issues) may continue to steer attention in a different direction. Add in the recent Supreme Court retirement announcement and the urgency to fill vacant agency seats, including at the Federal Reserve, and Democrats may have too much on their plate this month to see any major tangible wins on key policy priorities before the March 1<sup>st</sup> State of the Union. Congress will also be operating on an extremely restrictive calendar this month. Starting today, the Senate will be in session fifteen days in February and the House only eight. That said, House and Senate Committees will return to their regular cadence of hearings, following a light month of January on the hearing front.</p> <p>Below we provide updates into various workstreams in Congress, the White House and at the regulatory agencies, as well as touch on agendas at the Senate Banking and House Financial Service Committees.</p>
<p><b>CONGRESSIONAL ACTIVITY</b></p>	<p><b>Government Funding</b> The most urgent matter over the next couple weeks will be addressing the February 18<sup>th</sup> government funding deadline to avoid a government shutdown. Given the extremely tight timeline and no agreement on FY2022 funding levels at this point, we see another short-term continuing resolution (CR) into the Spring as the most likely outcome. We still believe Democratic lawmakers will aim to pass an omnibus spending package this year to allow President Biden to put his stamp on federal spending priorities, particularly in the event that they lose control of one or both Chambers of Congress later this year. And while this also remains a priority of some Republicans, including retiring Senate Appropriations Ranking Member Shelby (R-AL), potential attempts by Democrats to incorporate portions of BBBA could complicate this process.</p> <p><b>Build Back Better Act (BBBA)</b> Despite countless setbacks, the Administration and Senate Democrats are still pushing for the BBBA or a scaled-down version of the bill. There has been little progress on the legislation after Sen. Manchin (D-WV) announced in late-December that he could not support the bill in its current form, and momentum may continue to dwindle as other issues begin to take center stage, such as picking a replacement for retiring Supreme Court Justice Breyer and government funding. Additionally, inflationary concerns continue to plague the negotiations, which we believe will only stall the legislation further or may help accelerate its demise.</p> <ul style="list-style-type: none"> <li>• All of that said, the White House remains steadfast that they can get a version of BBBA across the finish line this year. Sen. Manchin has expressed support for some provisions of the bill, such as health care subsidies, climate programs, clean energy initiatives, and</li> </ul>

universal pre-kindergarten, so a smaller package focused on one, or any combination of these areas, may be conceivable. That said, there are some procedural challenges Democrats would face if they try to pass smaller portions of the bill, given current reconciliation instructions they are operating under. Additionally, Manchin has continued to echo his inflationary concerns and poor inflation numbers released by the Consumer Price Index (CPI) in mid-January exasperated this angst.

- The furor amongst progressives continues to escalate as some of the party's most vocal figures, such as Rep. Ocasio-Cortez (D-NY), continue their pressure campaign toward holdout Sens. Manchin and Sinema (D-AZ). Meanwhile, Rep. Jayapal (D-WA), the Chair of the Congressional Progressive Caucus, recently urged the Senate to pass BBBA by March 1<sup>st</sup>, before the State of the Union or for the President to use executive actions to pass certain components of the bill related to drug pricing and climate change. But we don't believe these progressive Members carry much weight in terms of Manchin's ultimate decision-making on the matter. Also, most Democrats in the Senate, with the exception of Sen. Sanders (I-VT), have largely put active, public negotiations with Manchin on hold and are working in a behind-the-scenes approach. This is to give Manchin space and halt undue pressure that may further deter him from engaging. We still believe it is unlikely this will advance before the State of the Union, especially given the time constraints.
- Ultimately, it remains unclear if, or when, Senate Majority Leader Schumer (D-NY) will hold a vote on BBBA, and Speaker Pelosi (D-NY) has recently changed her tune toward focusing less on timing and more on ensuring the votes. We continue to believe that as long as the Democratic Party remains fractured on these issues, and the more time goes on, the chances of passing the BBBA agenda are quickly dimming. Action on a narrower combination of BBBA components is not out of the question, but Democrats will need to soon decide which path they ultimately want to pursue to have any chance of a legislative victory here. They will also have to navigate procedural challenges with advancing in this fashion. We expect any substantial negotiations are more likely to pick back up after Congress addresses government funding later this month.

#### Other Items

- **Voting Rights:** While Democrats have recently come up short on several key priorities, the party's leaders believe there is still time to rack up a few wins even in the politically charged time of a midterm elections year, and voting rights tops the list for many in the party. After failing to enact two voting rights measures earlier this year without Republican support (the Freedom to Vote Act and the John Lewis Voting Rights Advancement Act), some Democrats have shifted attention towards a separate effort in the Senate, led by Sens. Collins (R-ME) and Manchin, to reform the Electoral Count Act of 1887 (ECA). Some reforms being discussed include more training and protections for poll workers; clarifying that the Vice President has no authority to overturn election results submitted by states; and raising the bar for the number of lawmakers needed to object to a state's electoral count. Currently, nine Republicans and seven Democrats are involved in this effort. Senate Minority Leader McConnell (R-KY) has signaled openness to having the ECA reform debate, indicating that there may be sufficient Republican support, but that won't likely be determined until the release of legislative text. Also, House Progressives have quickly raised public concern that ECA reform would not go far enough to address state-level efforts to subvert election administration ahead of the November midterms. So, it's yet to be known whether a Senate bipartisan bill could withstand anticipated pushback from the left in the House. We believe that reforming ECA, as opposed to comprehensive voting bills, is a more viable path towards getting something done in this space prior to the November midterms.
- **China/USICA:** This week, the House will vote on the America COMPETES Act, companion legislation to the U.S. Innovation and Competition Act (USICA), which the Senate passed on a bipartisan basis last summer. Like USICA, the House bill includes significant subsidies for the semiconductor industry to combat the computer chip

	<p>shortage, but Senate and House lawmakers remain divided over priorities designed to strengthen American trade laws with China. Lawmakers are especially divided over the size and structure of a new tech directorate at the National Science Foundation and provisions cracking down on collaborations between U.S. and Chinese researchers, with the Senate in both cases favoring a more aggressive approach. House Republicans oppose the COMPETES Act in its current form, citing the inclusion of various climate-related provisions. We still expect it will pass out of the Chamber, albeit along party-lines, and still view China-related legislation as a high priority in both chambers and among both parties, with a strong potential to pass into law in 2022. That said, a formal conferencing of the two measures before reaching the President’s desk is inevitable. We ultimately believe the final product will look very similar to the Senate-passed USICA and receive bipartisan support in both the House and Senate.</p>
<p><b>SENATE BANKING &amp; HOUSE FINANCIAL SERVICES COMMITTEES</b></p>	<p><b>Senate Banking Committee</b>  We expect the Senate Banking Committee (SBC) to continue to process nominations this work period, with a focus on the Federal Reserve nominees. Beyond nominations, SBC is also expected to continue its focus on housing and will hold a hearing on the role private equity plays in housing. Given the growing attention to digital assets and, in particular, stablecoins, it is likely we will see the Committee hold a hearing this work period, with private sector witnesses expected to be asked to testify. Also on the crypto front, we expect the Agriculture Committee may hold a digital assets hearing within the month as well.</p> <ul style="list-style-type: none"> <li>• <b>Fed Nominations:</b> President Biden’s nominees for Vice Chair for Supervision (Sarah Bloom Raskin) and two vacant Board seats (Lisa Cook and Philip Jefferson) will testify before SBC this Thursday. We expect a majority of questions to be directed towards Raskin, and for GOP members, including Ranking Member Toomey (R-PA), to criticize her previous statements related to shifting financing away from oil and gas companies. Raskin will likely need the support of all 50 Democrats, which may depend on her ability to defend her previous statements in this week’s hearing. Notably, no moderate Democrats have come out in opposition to her nomination at this point. We expect all Fed nominees, including the three slated for this week, as well as Jerome Powell for Chair and Lael Brainard for Vice Chair, will move together (more below).</li> </ul> <p><b>House Financial Services Committee</b>  The House Financial Services Committee (HFSC) has a relatively light schedule this month due to the limited number of session days. The slate of hearings begins tomorrow and includes four at the Subcommittee level and two at the full committee level. Chair Waters (D-CA) and Democrats will continue to hold hearings on items that have been top priorities including housing, D&amp;I and CDFIs and MDIs. In addition, the Committee will hold a hearing on stablecoins where we expect Undersecretary of the Treasury for Domestic Finance Nellie Liang will appear to discuss the President’s Working Group on Financial Markets report on stablecoins. The full Committee schedule is below. Notably, HFSC has returned to a completely remote hearing structure and will not hold a markup in February.</p> <ul style="list-style-type: none"> <li>• <b>February 2<sup>nd</sup></b> – Subcommittee on Housing, Community Development &amp; Insurance hearing, “Housing America: Addressing Challenges in Serving People Experiencing Homelessness.”</li> <li>• <b>February 3<sup>rd</sup></b> – Subcommittee on Diversity &amp; Inclusion hearing, “Building Opportunity: Addressing the Financial Barriers to Minority and Women-Owned Businesses’ Involvement in Infrastructure Projects.”</li> <li>• <b>February 8<sup>th</sup></b> – Full Committee hearing entitled, “Digital Assets and the Future of Finance: The President’s Working Group on Financial Markets’ Report on Stablecoins.”</li> <li>• <b>February 16<sup>th</sup></b> – Full Committee hearing entitled, “An Unprecedented Investment for Historic Results: How Federal Support for MDIs and CDFIs Have Launched a New Era for Disadvantaged Communities.”</li> <li>• <b>February 17<sup>th</sup></b> – Subcommittee on National Security, International Development &amp; Monetary Policy hearing entitled, “The Role of the IMF in a Changing Global Landscape.”</li> </ul>

	<ul style="list-style-type: none"> <li>• <b>February 17<sup>th</sup></b> – Subcommittee on Consumer Protection &amp; Financial Institutions hearing entitled, “Small Businesses, Big Impact: Ensuring Small and Minority-Owned Businesses Share in the Economic Recovery.”</li> </ul>
<p><b>REGULATORY AGENDA</b></p>	<p><b>Federal Reserve:</b> As discussed above, attention this month at the Fed will be on filling current vacancies and setting the stage for the 2022 agenda, including expected rate hikes from the Fed in March. Of note, Jerome Powell’s term as Fed Chair ends after this week, meaning he will have to shift into an Acting Chair role until he is reconfirmed by the Senate. We still expect his nomination to advance, although we understand Progressives, led by Sen. Warren (D-MA), have deployed efforts to stall his confirmation until the Senate Banking Committee considers Biden’s other nominees for the remaining open Board seats. As a result, Powell’s confirmation could be delayed until late into the month and will likely move alongside the other nominees.</p> <p><b>Securities Exchange Commission:</b> One of the top priorities of the SEC will remain on climate-related risk disclosure proposals, which were expected early this year. Chairman Gensler is still waiting on recommendations from his staff in this area, so rule proposals from the SEC will likely not be released until late Q1. We also understand that proposals related to human capital disclosures likely will come after the climate risk release.. Late last month, the SEC issued an over 600-page proposal to expand Regulation ATS. The proposal will be added to the Federal Register in the coming days and will see a 30-day comment period. Finally, Gensler kicked off his ramped up focus on private funds in January with proposed updates to Form PF with a goal of increasing “transparency” and improving market surveillance. Additional workstreams at the SEC continue on efforts related to cybersecurity reporting requirements, 13F filings by hedge fund managers and cryptocurrency regulation. The SEC also reopened a proposed rule related to executive compensation disclosures late last week. Despite the various ongoing efforts, we believe tangible action this month and in the near-term at the SEC will come in the form of enforcement and ensuring compliance.. Notably, Republican Commissioner Roisman left the SEC at the end of January, leaving a 3-1 Democratic majority.</p> <p><b>Financial Stability Oversight Council:</b> FSOC will hold its first meeting of 2022 this week, which the group will use to set their agenda for the coming year. In an open session, FSOC is set to discuss nonbank financial intermediation, which Treasury Secretary Yellen has continuously indicated is a top three priority of FSOC under her leadership. We are closely monitoring to see if there will be any signals about a return to an entity designation framework. We expect to see a focus on leveraged hedge funds and potentially discussion on money market fund reforms and vulnerabilities of open-end mutual funds. In a session closed to the public, FSOC will hear updates from the Council’s Hedge Fund Working Group and Open-end Fund Working Group, among other topics.</p> <p><b>Nominations:</b> In addition to the Federal Reserve nominations, we understand that Biden’s four picks to fill open seats at the CFTC have begun taking meetings with Senate Agriculture Committee offices and industry stakeholders. A nominations hearing has not been set, but we know this is a priority of the Ag Committee and it could be scheduled within the next month. Filling vacancies to lead the FDIC and OCC seem to be less pressing, and developments here are not expected in February as Acting Chairs of each agency remain in place.</p>
<p><b>WHITE HOUSE</b></p>	<p><b>Supreme Court:</b> Late last week, Justice Stephen Breyer officially announced plans to retire from the Supreme Court at the end of the current term this summer, assuming that a successor has been confirmed by that time. President Biden quickly voiced commitment to nominate a Black woman to fill the high-court vacancy shortly after the announcement – with a plan to do so by the end of February. Since a nominee to the high court requires only a simple majority vote (51 votes), Biden’s pick will face an even tighter vote than the three most recent justice nominations but won’t require Republican support – provided all Democrats vote as a bloc.</p> <ul style="list-style-type: none"> <li>• Biden continues to meet with Senate leaders, trusted advisors, and stakeholders to discuss potential nominees for the vacancy, and a few possible candidates have been floated around the airwaves: Appeals Court Justice Ketanji Brown Jackson; California</li> </ul>

Supreme Court Justice Leandra Kruger; and federal District Court Judge J. Michelle Childs, a South Carolinian backed by House Majority Whip Clyburn (S-SC) and Senator Lindsey Graham (R-SC).

- Notably, while moderate Sens. Manchin and Sinema have been accused of holding up Biden’s economic agenda and impeding Democrats’ attempt to overhaul voting rights, they’ve joined in the unanimous Democratic support for Biden’s nominees to lower courts so far. We expect the two Senators wouldn’t likely pose any hurdles here, particularly if the nominee is a candidate previously confirmed to a lower court.
- Speaking from the Senate floor on January 31<sup>st</sup>, Majority Leader Schumer promised a “fast but fair” process to fill the vacancy and said the Senate would act “as soon as possible” to fill the seat. We could see an announcement as soon as this month, but given that the President’s list of possible candidates has supposedly exceeded a dozen, we expect the Administration will want to take time to properly vet each candidate before ultimately making a decision. Justice Breyer’s successor isn’t likely to shift the ideological balance on a court with a 6-3 conservative majority.

**Russia Sanctions:** Following increasing tensions in recent weeks, officials say the U.S. is prepared to impose sanctions and export controls on critical sectors of the Russian economy if Russian President Putin invades Ukraine. The U.S. is also working to soften market shocks if Russia withholds energy supplies in retaliation. Despite Russia’s continuous denial of plans for invasion, further military deployment to the border has the U.S. and other NATO allies preparing for the worst, and lawmakers are negotiating potential sanctions legislation led by Sens. Menendez (D-NJ) and Risch (R-ID).

- The bill would include financial sanctions on Russian officials and financial institutions following an invasion, as well as arming Ukraine with additional security capabilities. President Biden also introduced the idea of sanctions that personally hit Putin – a call the UK later echoed. Negotiations remain active as GOP members continue to call for imposing certain penalties before an invasion occurs, and as members try to reach an agreement on the Nord Stream 2 pipeline. Sens. Shaheen (D-NH) and Murphy (D-CT) are leading an effort on language to ensure the pipeline is not used as a foreign policy tool by Putin, without threatening U.S. relations with Germany. The language has not been released, so it remains unclear whether Republicans will ultimately be supportive, particularly since all but one (Sen. Paul (R-KY)) supported Sen. Cruz’s (R-TX) bill that failed to advance in January.
- Senators will continue briefings with national security and intelligence officials this week, and Secretary of State Blinken is set to talk with Russia’s foreign minister today. This situation remains extremely fluid, and we will continue to monitor

**Crypto:** With the growing attention on cryptocurrencies from Congressional committees and regulators across the board, a White House executive order (EO) on digital assets is expected to be released as early as February. Its substance remains somewhat unclear at this point, but the goal will be to streamline current workstreams within Congress and agencies towards a regulatory framework. Biden has also indicated the EO will include a strong focus on addressing crypto-related national security concerns, including combatting illicit finance. We do not expect the EO will take any firm positionings on how to regulate the space, much like the Federal Reserve’s paper on a U.S. CBDC took a neutral position, but it will rather look to coordinate already ongoing efforts at agencies including the SEC, CFTC, OCC, Fed, Treasury, Department of Commerce and Department of Justice, among others. It will call on agencies to study and produce reports on the risks and opportunities posed by digital assets from both an economic and national security perspective, including a report from FSOC.