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# September 2022 Outlook

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<p><b>OVERVIEW</b></p>	<p>The month-long summer recess has officially come to an end as Congress prepares for the final stretch before the November midterm elections. In addition to this week, the Senate is scheduled to be in session for the remainder of September and for two weeks in October. Meanwhile, the House will start off with a committee work week, fully returning next week (September 13<sup>th</sup>) for just eleven session days before they depart until after the midterm elections. On the legislative front, addressing the September 30<sup>th</sup> FY2022 government funding expiration will be the utmost priority. Given the limited window of time before the House’s departure and the midterms, we anticipate any additional comprehensive legislation to be punted until the year’s end.</p> <p>Despite Congress’s absence from D.C. over the last several weeks (with the exception of both Chambers returning to vote on the reconciliation bill), the Administration did not stray from making headlines with its decision regarding student loan forgiveness. This, alongside the Democrats’ Inflation Reduction Act (IRA), will be among the top items of discussion over the coming weeks, with members of both parties certain to use the issues as campaign ploys. While the President’s approval ratings remain weak, passage of the IRA and China competitiveness package, along with a strong jobs market and lower gas prices provide Democrats with some accomplishments and positive signs from the economy that they can take to the campaign trail. Meanwhile, Republicans will continue to point to record inflation and a stagnant unemployment rate, while questioning the legality of the President’s student loan decision. We cover the top-of-mind items for Congress this month below, along with expected regulatory activity and a political update as we head into the final month of primary elections.</p>
<p><b>CONGRESSIONAL ACTIVITY</b></p>	<p>With Democrats’ larger legislative priorities accomplished (China competitiveness package and IRA) this summer and the November elections nearing, we don’t anticipate substantial movement this month on any comprehensive legislation. Avoiding a government shutdown will be the first priority, as well as addressing expiring FDA user fees. While discussions on the National Defense Authorization Act (NDAA), tax extenders and the debt limit may be raised behind the scenes, real negotiations won’t occur until after the elections (with the debt limit still most likely to be a 2023 exercise). Rather, Senate Democrats will focus on judicial confirmations, given that judges in the queue will come to a standstill if Republicans retake control of the Senate. Notably, 29 nominees are currently awaiting a hearing in the Senate Judiciary Committee, five are waiting to be reported out of the Committee, and 22 are awaiting floor votes. Senate Finance will also consider the nomination of Douglas McKalip this week to be Chief Agricultural Negotiator at the Office of the U.S. Trade Representative. The Senate Foreign Relations Committee will also have an active couple of weeks, with a closed briefing focused on updates from the Department of State on the Russian invasion of Ukraine, a hearing later in the month focused on U.S. policy towards Venezuela, as well as consideration of the Taiwan Policy Act of 2022.</p> <p><b>Government spending:</b> The immediate focus this month as Congress returns from recess will be addressing the September 30<sup>th</sup> expiration of FY2022 government funding to avoid a shutdown. Prior to the August recess, the Senate Appropriations Committee released the full slate of twelve FY2023 appropriations bills – which reflect only Democratic priorities. Ranking Member Shelby (R-AL) has suggested the bills include “poison pill” provisions and lack sufficient defense</p>

spending to garner Republican support. The proposals will serve as a basis for future negotiations with the GOP and between the House and Senate. It seems inevitable that Congress will pass a continuing resolution (CR) this month to extend current funding levels until later this year, likely through early or mid-December, and negotiations will resume after the elections. We expect other expiring programs, like the National Flood Insurance Program (NFIP) to be included as an attachment to any stopgap funding bill.

- As a condition of his vote on the IRA package, Democratic leadership struck a permitting deal with Sen. Manchin (D-WV) that could complicate swift passage of a short-term CR. While Manchin has discussed a few provisions he wishes to see included in the legislation, no actual text has been released yet. There is a discussion about attaching the forthcoming Manchin proposal to the CR, but environmental groups and progressives will oppose such a move. Similarly, it is unlikely a sufficient number of Republicans will get on board, so we will have to see how Leader Schumer (D-NY) and Speaker Pelosi (D-CA) ultimately resolve this issue before funding expires.

**FY2023 NDAA:** The House finished consideration of the FY2023 NDAA before leaving for the August recess. Provisions including the SAFE Banking Act and Rep. Langevin's (D-RI) systemically important critical infrastructure (SICI) cyber amendment made it into the House's final version, although whether they will be included in the final bill remains unclear. The Senate has not considered their version of the NDAA yet, though that will most likely happen this month. As a reminder, the Senate Armed Services Committee passed its version in June by a bipartisan 23-3 vote. Once the Senate completes and considers their bill, the two chambers will begin to negotiate on the final product – which likely won't happen until after the elections.

**Digital assets:** On September 14<sup>th</sup>, the Senate Agriculture Committee will hold a hearing focused on the *Digital Commodities Consumer Protection Act*, introduced last month by Chair Stabenow (D-MI) and Ranking Member Boozman (R-AR). The witnesses will include CFTC Chair Behnam, followed by a second panel from the crypto industry. A mark-up of this legislation later this month or early October could follow this hearing. We also understand the House Agriculture Committee is working to put together a subcommittee hearing focused on diversity issues in the digital assets space. Also of note is a letter sent to both industry and regulators (Treasury, SEC, CFTC, FTC) last week by Rep. Krishnamoorthi (D-IL) calling for greater fraud oversight over crypto markets. Krishnamoorthi, who chairs the House Oversight Committee Subcommittee on Economic and Consumer Policy has asked for robust responses from recipients by the September 12<sup>th</sup> requested date, although that timeline seems ambitious. This is yet another example of Congress's growing interest in the space, and another committee entering into the discussion. Along with a potential markup in House Financial Services Committee of stablecoin legislation (more below), we continue to expect crypto issues to remain prevalent across various committees for the remainder of the year, despite the low prospects for passing comprehensive legislation this Congress.

**Retirement legislation:** After the Senate finally moved on their version of retirement reform legislation in late-June, efforts temporarily stalled on this front given the significant focus on reconciliation from both the Senate Finance and Senate HELP Committee Democrats. We expect efforts to hash out differences between the Senate's \$39 billion package and the House-passed SECURE 2.0 to restart this fall, with the expectation of passage at the end of this year. As a reminder, while the two versions are largely similar and share the same end-goal, there are several differences that will need to be reconciled. The most prominent relates to auto-enrollment – the House bill would require employers to automatically enroll employees in their 401(k) plans at a rate of at least 3%. The Senate bill does not propose auto-enrollment.

**SENATE  
BANKING &  
HOUSE  
FINANCIAL  
SERVICES  
COMMITTEES**

While schedules are still somewhat coming together for the month, a host of hearings have already been slated for the month in both the Senate Banking Committee (SBC) and House Financial Services Committee (HFSC). Both committees will hold high profile hearings with the CEOs of the four largest retail banks – JP Morgan Chase, Citi, Bank of America, and Wells Fargo, along with the three largest regional banks – Truist, PNC and Capital One. The focus is on consumer retail issues, but we anticipate Members will press the executives on their pet issues across the board. HFSC’s hearing with the banks will be held on September 21<sup>st</sup> and SBC on September 22<sup>nd</sup>. Other activity is noted below.

**Senate Banking Committee (SBC)**

Starting off this week, SBC will also hold a September 8<sup>th</sup> hearing on insurance issues with representatives from the National Association of Insurance Commissioners (NAIC) and the Federal Insurance Office (FIO) to testify. While SBC Chair Brown (D-OH) is expected to spend at least some of his time focused on private equity’s involvement in insurance, the hearing will be broad in scope, and Senators will ask questions across the board (i.e., flood insurance/NFIP; climate; international capital standard/aggregation method; the role of insurance in crypto, etc.). We don’t expect widespread attendance from Members.

- SBC is also expected to hold a hearing the week of September 12<sup>th</sup> focused on potential risks to consumers presented by new products in the FinTech space, including the growth of Buy Now Pay Later products and similar offerings.
- Also on the docket is testimony from SEC Chairman Gensler. SBC has slated September 15<sup>th</sup> for their oversight hearing, while a date in HFSC was in the works for this month, but ultimately did not make it on the agenda. Similar to the bank hearing, questions will be wide-ranging, particularly given that this will be Gensler’s first appearance since the fall of 2021 – before a majority of his proposed rulemakings and enforcement actions had even occurred.

**House Financial Services Committee (HFSC)**

The House is not fully back in session until next week, and the virtual HFSC hearing initially set to be held this week, on September 8<sup>th</sup>, has been postponed. The hearing, which was intended to focus on accounting and auditing standards, is still a priority for Subcommittee Chair Sherman (D-CA) and we expect will be rescheduled once both parties are able to identify suitable witnesses.

- Next week, HFSC will convene for a full Committee hearing on the impacts of banks and financial institutions leaving the Caribbean. Chair Waters has been a leader in this issue area and recently called on the Biden Administration to advance financial access and inclusion for Caribbean Nations. She also recently led a delegation to the Caribbean. The hearing is set to take place on September 14<sup>th</sup>.
- The week of September 19<sup>th</sup> will be a busy one for HFSC. In addition to the bank and insurance hearings that week, the Committee will start off with a hearing in the Subcommittee on National Security, International Development, and Monetary Policy, focused on alternative payments systems and the national security impacts of their growth. We expect discussion to center around topics such as China’s Cross Border Interbank Payments system (CIPS), SWIFT, and the use of digital assets. The hearing is set to take place on September 20<sup>th</sup>.
- The insurance industry will also see a spotlight in HFSC this month with two related hearings. First, a September 20<sup>th</sup> hearing focused on responses to the Diversity & Inclusion Subcommittee’s request for information from the largest insurance companies’ diversity practices. Later that week, on September 22<sup>nd</sup>, the Housing & Insurance Subcommittee will hold a hearing on the impact of wildfire risk to the insurance market. The issue has continued to be a focus of FIO and the Federal Advisory Committee on Insurance (FACI).
- HFSC could also markup the Waters/McHenry stablecoin bill depending on the progress of negotiations. While we understand conversations continued over the August recess, a number of significant differences remain, making the prospects for a deal unclear. The

	<p>Committee has held time on the calendar for next week to markup the legislation if the two sides are able to reach a deal, but this timing could certainly slip.</p>
<p><b>REGULATORY AGENDA</b></p>	<p><b>Department of Treasury</b>  Various key reports on digital assets are anticipated to be released this month. The President’s March executive order on “Ensuring Responsible Development of Digital Assets,” required several reports to be published within 180 days – which technically fell on Labor Day, September 5<sup>th</sup>. Among these is a Treasury report focused on various aspects within the growing crypto space (i.e., consumer protections, prospects and challenges of a CBDC, impact to the broader payment system, etc.). In a recent Financial Stability Oversight Council (FSOC) meeting, Treasury indicated that the report would be released in “early fall,” presumably meaning sometime in September. The EO emphasized that interagency coordination is essential, and as a result, along with Treasury, the Office of Science and Technology, the Department of Commerce, and the Justice Department, with the assistance of the Treasury and Homeland Security, are each spearheading various reports and statistical analyses on other aspects, like U.S. competitiveness, environmental impacts and the role of law enforcement. Outside of digital assets, Secretary Yellen will continue focus on the economy and will embark on a speaking tour this month to help tout the President’s recently enacted IRA, China competitiveness bill and broader economic agenda ahead of the midterms. She will also likely highlight the recent agreement by the G7 leaders to place a price cap on Russian oil, a move that Yellen has been pushing for.</p> <p><b>Securities Exchange Commission (SEC)</b>  We expect Chairman Gensler to continue with his fast-paced and aggressive rulemaking agenda over the course of the fall. This month, we anticipate the SEC is on track to issue a rule proposal related to Treasury Market clearing. We understand the Commission is also working diligently with the goal of releasing equity market reform rule proposal(s) this month, although that could slip into October. We do not anticipate any major developments on the climate disclosure rule this month.</p> <p><b>Federal Housing Finance Agency (FHFA)</b>  Earlier this month, the FHFA announced its plans to conduct a review of the Federal Home Loan Bank System beginning this fall. This will be a longer-term project in which FHFA may address aspects of proposed changes in different pieces/proposals, and the statute under the Federal Home Loan Bank Act will be somewhat restrictive in what the agency can ultimately do. Also last month, FHFA and the Government National Mortgage Association (Ginnie Mae) issued a joint announcement of their updated capital and liquidity framework. At this point, industry is still assessing the impact and will be engaging on recommendations to better tailor the requirements to ensure market stability.</p> <p><b>Consumer Financial Protection Bureau (CFPB)</b>  Also on our radar is an anticipated study from the CFPB regarding the Bureau’s findings from its Buy Now Pay Later (BNPL) monitoring orders. Last December, the CFPB sent orders to five BNPL companies requesting additional information about their products. CFPB Director Chopra has indicated that the goal is to release the report in the coming weeks and that the findings will determine whether regulatory action is needed. Chopra has suggested lenders are unable to properly underwrite without fully understanding how much BNPL exposure a consumer has, and the issue has continued to be a focus of Chopra both in the consumer protection and competition space. The expected study comes on the heels of the recently issued, more comprehensive report focused on consumer protection issues in the broader payments space. Chopra is speaking at a September 21<sup>st</sup> Exchequer Club meeting, and we expect this will be an item of discussion.</p>

## POLITICAL

### September Primaries

Following a jam-packed month of August on the elections front (more below), September will close out the primary season with elections in the remaining four states (MA, DE, RI, and NH).

- Massachusetts will kick off the month today (September 6<sup>th</sup>), though the most noteworthy elections are being held at the state level. Neither Democratic Senator from the state is up for reelection, and each of its nine Congressional districts should prove to be safe for Democrats. The biggest race to watch is the battle to replace popular Republican Governor Charlie Baker, who is not seeking reelection.
- On September 13<sup>th</sup>, the three final states will hold their primaries (DE, RI, NH). Expect no surprises in Delaware, with neither Senate seat up for grabs, and the state's at-large district expected to stay blue.
- In Rhode Island, neither Democratic Senator is up for reelection this year, and while Democrats are expected to hold onto at least one of the state's two House seats, the 2<sup>nd</sup> Congressional district, held by retiring Rep. Langevin (D), is considered a potential pick-up opportunity for Republicans. Four Democrats are vying for the party's nomination to face-off against Republican Allan Fung in November. Notably, the seat is not considered a swing district, nor has it previously been seriously considered competitive for Republicans, but a combination of an open seat, the President's low approval ratings, and a strong GOP candidate have made this race worth watching closely.
- Lastly, in New Hampshire, retired Army General Don Bolduc is the GOP's frontrunner to take on Democratic Sen. Hassan in November. Bolduc has the Trump endorsement, but it is unclear how much weight that will carry in a state where Biden won +7. Republicans still view Hassan as vulnerable, despite the challenge in finding a viable GOP candidate following popular Gov. Sununu's decision not to run. That said, flipping the state will be an uphill battle for Republicans. The race is among a handful that could determine whether Republicans win back the Senate majority.

### August Recap

Last month, fifteen states went to the polls for their primary elections, and while a majority of the results came as no surprise, there were several outcomes worth noting. Starting in New York, Rep. Jerry Nadler (D) ousted Rep. Carolyn Maloney (D) in a hotly contested primary between the two long-time incumbents and Chairs of two prominent committees. Nadler's victory came on the heels of the late endorsements from the New York Times and Majority Leader Schumer (D-NY) which helped to push him over the finish line. Notably, several Democrats have already thrown their name in to succeed Maloney as the lead Democrat on the House Oversight Committee. Additionally, Democratic Congressman and DCCC Chairman Sean Patrick Maloney successfully defeated his far-left challenger that had the backing of progressive Rep. Ocasio Cortez (D-NY). New York also held a notable special election in late-August in one of the state's only battleground districts (NY-19). Democratic candidate, Pat Ryan, won by 2% in a seat Republicans had hoped to flip. In other House news, Rep. Liz Cheney (R-WY) – Trump's fiercest Republican adversary in Congress, lost her primary to Trump-backed candidate, Harriet Hageman in the state's sole district. In the Senate, the most noteworthy primary race last month was in Missouri, where Republicans picked Attorney General Eric Schmitt over his scandal-plagued opponent that Republicans feared could jeopardize their chances of maintaining the crucial Senate seat. This likely solidifies Republicans' ability to hold the seat. Otherwise, while two key swing states held their primaries (Arizona and Wisconsin), the expected candidates from each party advanced, teeing up two highly-competitive Senate races in November.