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March 2023 Outlook

March 1, 2023

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| OVERVIEW | <p>Following a limited February legislative calendar, Congress will be in Washington for most of the month of March. The House will be in session for twelve days – they are out the week of March 13th – and the Senate in session for nineteen days. Recent developments in the Russia-Ukraine War, such as newly imposed Russian sanctions, questions as to whether China will provide lethal military assistance, and the debate around sending additional funding to Ukraine will take up oxygen in D.C. and could illuminate the division within the House Republican caucus on the conflict more broadly. Additionally, this month we expect continued interest in the debt ceiling crisis, oversight over the recent train derailments, as well as continued speculation on who President Biden will nominate to replace Lael Brainard for Vice Chair of the Federal Reserve. We also expect the Biden Administration to release their fiscal year 2024 budget request on March 9th, and House Republicans to release an outline of their budget proposal shortly thereafter. Other pressing items, committee schedules, and the regulatory agenda are included below.</p> |
| CONGRESSIONAL ACTIVITY | <p>March will be a more vibrant legislative month with Committee assignments set and hearings in full swing. Several notable bills were included on the suspension calendar in the House this week, including passage of the SECURE Notarization Act. Additionally, a GOP-led measure to overturn the Labor Department’s ESG rule using the Congressional Review Act (CRA) passed out of the House on a mainly party-line vote with one Democrat supporting. The measure is expected to draw slim (but enough) Democratic support to advance out of the Senate (a CRA needs only a simple majority to pass). President Biden has threatened to veto the resolution – this would be the first veto of his presidency – but this effort is notable and builds upon the efforts of at least 25 GOP-led states to block this DOL rule that allows plan fiduciaries to consider ESG factors in investment decisions. Additionally, Senate Democrats and the Administration will continue to focus on implementation of the Infrastructure Investment and Jobs Act and the Inflation Reduction Act. The Joint Committee on Taxation also holds its organizational meeting this week.</p> <ul style="list-style-type: none"> • On the hearing front, to start off the month, the House Energy and Commerce’s (E&C) Subcommittee on Innovation, Data, and Commerce will hold a hearing today on developing a national standard for data privacy. Given that the hearing is at the Subcommittee level, we don’t anticipate draft legislation to be introduced and for the agenda to focus primarily on protecting consumer data against misuses by Big Tech and the Chinese Communist Party. Notably, the House Financial Services Committee (HFSC) passed a data privacy proposal sponsored by Chair McHenry (R-NC) out of the committee on a party-line vote yesterday (more below). However, the HFSC and E&C efforts have not been coordinated at this point, and we don’t expect the McHenry proposal to see a floor vote this month. The issue will continue to be prioritized this Congress, along with the focus on Big Tech, and while there are bipartisan efforts to reach a compromise, significant hurdles remain – predominantly around two key provisions (i.e., private right of action and federal preemption), as well as jurisdictional hurdles. • The Senate Agriculture Committee will continue to hold hearings this month on the 2023 Farm Bill ahead of its reauthorization deadline in September, and we also |

understand CFTC Chair Behnam will testify for a general oversight hearing the week of March 6th. We expect the oversight hearing to be tailored more toward agriculture and energy commodities products, as well as financial futures and options, and less on digital assets.

- We also expect the Senate to have its regular cadence of hearings and votes on nominations. The Senate Judiciary Committee will hold nomination hearings to consider a slew of district judges, the Senate Finance Committee will vote on Danny Werfel to be an IRS Commissioner, and the Senate Small Business Committee will hold a nomination hearing to consider Dilawar Syden to be Deputy Administrator of the Small Business Administration. Another notable nomination hearing will be held in the Senate Commerce Committee today for Administrator of the Federal Aviation Administration – at a time when the airline industry is under deep scrutiny from the public and by members of both parties.
- We expect SEC Chair Gensler to testify in the House Financial Services Committee in mid-April, and to potentially testify in front of the House Appropriations Subcommittee on Financial Services and General Government (FSGG) either this month or in April.
- The Senate Budget Committee will hold its second hearing on climate change today, entitled “Rising Seas, Rising Costs: Climate Change and the Economic Risks to Coastal Communities.” The hearing will touch upon climate change’s impact on housing, and witnesses include a former Fannie Mae and Freddie Mac employee with several years of experience studying climate change’s impact on housing.

Ukraine

Last week marked the one-year anniversary of Russia invading Ukraine, and as the conflict enters its second year, Congress is reassessing the U.S.’s approach to future aid. President Biden and Secretary Yellen each made surprise visits to Kyiv over the past week to reaffirm the U.S.’s support, and while Democrats and most GOP lawmakers have generally supported previous efforts to provide assistance to Ukraine, Republicans are somewhat divided on whether to continue engaging – at least not without proper oversight regarding how the aid and military equipment are being allocated and used. Certain Republican members have criticized the Administration for deploying significant resources to Ukraine without a clearer picture into Ukraine’s path to victory, and without also placing sufficient attention on the domestic border crisis. A group of lawmakers within the Republican caucus, predominately comprised of the McCarthy holdout members from his race for Speaker, have gone as far as to support a resolution to put a full end to all aid for Ukraine. This type of measure has not received widespread support from the party, but it is also unlikely McCarthy brings any type of aid package to the table if it threatens to heavily divide the Republican conference. McCarthy has not shut down the idea of providing additional support to Ukraine, but has stated he is against additional aid without some type of funding verification method. Meanwhile, Senate Minority Leader McConnell (R-KY) has raised concerns about the consequences of not standing up to the Russian regime, and the message that sends to China – a key consideration among many Republicans. With the recent revelation that China is considering sending lethal military assistance to Russia, and talks of further conflict escalating, we can expect more conversations on how to approach providing additional assistance to Ukraine as existing aid dwindles.

Debt Ceiling

Over the weekend, Treasury Secretary Yellen said she is willing to negotiate with Republicans on deficit reductions ahead of unveiling the Biden Administration’s budget proposal, expected to be released March 9th. That said, she did not discuss deficit reductions in the context of the debt ceiling, even though Republicans are tying the issues together. Yellen also reaffirmed that the X-date will likely be in early June – despite the recent CBO estimate that Treasury’s extraordinary measures could last until September. That said, we expect this date to be subject to change and will become clearer following the April 18th tax filing deadline, when the IRS determines tax

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| | <p>revenues. We expect negotiations on the debt ceiling to pick up as the X-date approaches, but for now, we don't anticipate much action on the issue aside from it remaining a headline topic for the coming months.</p> |
| <p>SENATE BANKING & HOUSE FINANCIAL SERVICES COMMITTEE</p> | <p>SBC The Senate Banking Committee kicked off the week with a hearing on sanctions and export controls and is expected to have Federal Reserve Chair Powell testify next week on March 7th in accordance with the Humphrey-Hawkins Full Employment Act. We expect a majority of questions by Senators to focus on current inflation levels and monetary policy. Later in March, we expect the subcommittees to begin to have hearings with one anticipated in the Housing Subcommittee focused on homelessness and one in the Economic Policy Subcommittee focused on the debt ceiling. The overall committee is also expected to have a hearing focused on transit and potentially a nominations hearing, but unless something somehow comes together quickly over the next few weeks, it likely will not be on the nominee to replace Lael Brainard as Vice Chair at the Fed. With these expected hearings, the committee may keep to a cadence of holding one hearing a week while Congress is in session.</p> <p>HFSC We anticipate Chair McHenry will release a full hearing agenda within the next couple of days, but we know several hearings are already in the works. We expect six hearings during the first full week of March – one full committee hearing and five subcommittee hearings. On March 8th, the full Committee will hold its Humphrey-Hawkins hearing featuring Fed Chair Powell. We expect inflation to be discussed heavily by House Republicans, as well other topics such as digital assets, climate-related financial risk, and financial stability. Powell may also be questioned on the impact of a vacant Vice Chair role, the impending FedNow implementation, and on Vice Chair for Supervision Barr's ongoing holistic review of capital standards.</p> <ul style="list-style-type: none"> • We also expect an Oversight & Investigations Subcommittee hearing on March 8th, which will feature inspector generals from various financial regulatory agencies. The hearing will set the stage for anticipated oversight hearings from these agency heads. • On March 9th, we expect an extraordinary three hearings from three different subcommittees. The Capital Markets Subcommittee will hold its final capital formation hearing before the full Committee proceeds to markup a number of proposals at the end of the month. The Subcommittee on Financial Institutions and Monetary Policy will likely hold a hearing focused on a broad review of the regulatory agenda from the CFPB. We expect witnesses to be academic and from consumer financial trades. Finally, the newly formed Subcommittee on Digital Assets, Financial Technology and Inclusion will hold its first hearing of the year, which will likely review the recent crackdown on the digital assets industry, including recent SEC enforcement cases and proposals, as well as actions and statements from other financial regulators. We expect industry witnesses for this hearing. • On March 10th, we expect the Subcommittee on Housing and Insurance to hold a hearing on flood insurance. The National Flood Insurance Program (NFIP) is slated to expire on September 30, 2023. There will be calls from members on both sides of the aisle to reform the program and for a long-term reauthorization, although it's not likely this hearing significantly moves the needle in either regard. • To close out the month, we expect a markup of several capital market proposals the week of March 27th. Following this month's hearings and attached legislation, there will be upwards of thirty capital formation-related bills eligible to be included in this markup, although the final markup list will not be determined until later in the month. • As noted above, we expect SEC Chair Gensler to testify in front of the committee in mid-April. |

**ADMIN AND
REGULATORY**
Administration Overview

We expect President Biden to release his Fiscal Year 2024 budget request on March 9th, which will likely call for another \$2 trillion in cuts over the next ten years. Additionally, while President's budget requests are generally view as more of a "wish list," we believe Biden's budget could serve as a platform for further bipartisan discussions around the debt ceiling. President Biden and Speaker McCarthy have only met once on the topic thus far.

- Regarding staffing, President Biden had made significant changes to his inner circle over the last few weeks, primarily within his economic team. It's safe to assume implementation of the Inflation Reduction Act and Bipartisan Infrastructure Jobs Act will dominate his agenda over the next two years.
- In the coming weeks and months, we anticipate the Biden Administration to address geopolitical conflicts concerning China and Russia, the fallout from the Supreme Court's decision on student loan debt, FAA reauthorization, the Farm Bill, immigration reform, privacy, and authorizations for the use of military force, among others. These headline topics are set against the backdrop of the President's likely re-election announcement.

Nominations

President Biden's search for a new Federal Reserve Vice Chair will continue this month after Lael Brainard resigned to become Director of the National Economic Council. There are several names that are circulating to replace Brainard, including Harvard Professor Karen Dynan, Northwestern University professor Janice Eberly, Chicago Fed President Austan Goolsbee, San Francisco Fed President Mary Daly, and Morgan Stanley Chief Global Economic Seth Carpenter. While we don't expect President Biden to nominate a candidate officially this month, we do anticipate the search to narrow in the coming weeks. Additionally, OCC Acting Comptroller Hsu continues to be the only Biden Administration financial regulator in an acting capacity. We don't see the Biden Administration rushing to nominate anyone to the position anytime soon. The President will also officially nominate Julie Su to lead the Labor Department (more below).

Consumer Financial Protection Bureau

The Supreme Court announced that it will review the United States Court of Appeals for the Fifth Circuit decision that declares the CFPB unconstitutional. The Fifth Circuit ruled last fall that the funding mechanism of the CFPB, which is drawn from funds at the Federal Reserve, is unconstitutional because it does not go through the annual congressional appropriations process. The high court will hear arguments on the case next term, so we don't expect a decision until likely 2024.

The only deadline for the Bureau this month is its court-ordered deadline of March 31st to issue a final rule implementing Section 1071 of the Dodd-Frank Act. However, the Bureau remains active on other fronts with an open comment period on its proposal to reduce the safe harbor threshold for late fees (comments due April 3rd), as well as its work to advance the 1033 rule. The next steps for 1033 is to publish a report summarizing the feedback the Bureau received during the Small Business Regulatory Enforcement Fairness Act (SBREFA) process. The Bureau expects to issue a proposed rule later in 2023 and a final rule in 2024.

Securities Exchange Commission

The SEC still has not finalized any of its major proposed rules and has instead chosen to finalize less controversial or smaller rules, while continuing to propose additional rulemakings. For instance, on February 15th, the SEC finalized a relatively non-controversial rule to shorten the settlement cycle for securities to T+1, while simultaneously proposing a major update to the so-called "Custody Rule" for investment advisers.

The SEC still has a number of rules that it has yet to propose on its agenda; to that end, we expect the SEC to continue to propose additional rulemakings this month, including a rule amending the Rule 12(g) definition of securities "held of record." We could also see a proposed

rule on cybersecurity disclosures for broker-dealers and other registrants, and potential movement on a proposed rule mandating human capital management disclosures. In addition, potential other rules that could be finalized include cybersecurity risk disclosures for both public companies and investment advisers, and Form PF amendments.

Financial Stability Oversight Council

FSOC met in February in executive session to hear from staff regarding its updates to the nonbank designation guidance. We have previously outlined the work by FSOC staff to revise the 2019 FSOC guidance issued under President Trump which shifted financial stability review to an activity and products first approach. This latest effort remains at the staff level but is progressing. Typically, when we see a staff presentation to FSOC principals in executive session, we would expect a public discussion and perhaps a release of proposed guidance at the next FSOC meeting. We currently anticipate this next meeting falling in late Q1 or early Q2 based on past meeting precedence. Other items discussed at the February FSOC meeting were related to the Council's 2023 priorities including examining climate-related financial risk, Treasury market resilience, and risks related to digital assets.

Commodity Futures Trading Commission

Chair Behnam outlined his agenda for 2023 in a speech in early February where he focused on several areas, including enhancing risk management and resilience, enhancing consumer protections, and promoting efficiency and innovation. In this speech, Behnam highlighted cyber as an area that will receive its own rulemaking and kept his remarks on crypto to a minimum, citing again the need for CFTC authority in the crypto cash market as well as highlighting the enforcement actions the Commission has taken in the digital asset space. Behnam is scheduled to testify in the Senate Agriculture Committee next week, which should provide some more indication of the CFTC's plans in the near term and for the balance of 2023. The CFTC also has begun to get their advisory committees up and running for 2023, with the Global Markets Advisory Committee (GMAC) meeting last month, the Energy and Environmental Markets Advisory Committee (EEMAC) meeting earlier this week, the Markets Risk Advisory Committee (MRAC) scheduled to meet next week on March 8th, and the Technology Advisory Committee (TAC) planning to convene later in the month.

Department of Labor

Earlier this week, President Biden announced his intention to nominate the current deputy Labor secretary, Julie Su, as Secretary of Labor. Previously, Su was the Labor Secretary for the State of California and was a civil rights attorney for 17 years before becoming a public official. If confirmed, she will have to immediately push back against attempts to roll back the Department's environmental, social, and governance (ESG) policies, as mentioned above. "Fiduciaries are permitted to consider corporate accountability and transparency, climate, and liability risks in the same manner as they would prudently consider other relevant factors when analyzing an investment's risk and return," according to a statement issued by the White House this week. (Note: Su was confirmed 50-47 in 2021 without Republican support).