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April 2023 Outlook

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<p>OVERVIEW</p>	<p>Congress returns today after a two-week recess and a busy month of March that saw an unexpected shift in focus following the collapses of Signature Bank and Silicon Valley Bank (SVB), as well as the takeover of Credit Suisse by UBS. Inevitably, this crisis will remain a top focus among financial regulators and lawmakers for the foreseeable future, but we do expect regular policy agendas to resume in April now that the initial shockwaves from the bank failures have settled. Appropriations season is upon us, debt ceiling discussions will continue to pick up as we approach the summer, and a flurry of committee business is expected over the coming weeks. The Senate will be in Washington for nine of the next ten business days to close out the month, and the House will be in session for eight. Meanwhile, this month will include Congressional appearances from several notable agency heads, while prudential regulators continue reviews of the banking system – all of this on the heels of the recent World Bank and International Monetary Fund Spring meetings that concluded late last week. With no shortage of action, RFA has provided below our take on notable activity at the legislative, regulatory, and administrative levels for the upcoming April work period.</p>
<p>DEBT CEILING STATE OF PLAY</p>	<p>In short, there have been no debt ceiling negotiations between the Administration and Congressional Republicans since President Biden sat down with Speaker McCarthy (R-CA) in February. Since then, Republicans have continued efforts to coalesce around a debt ceiling plan and to try and bring the Administration to the negotiating table, while the Administration continues to hold firm that the debt ceiling should be raised without conditions as well as pressuring House Republicans to put forth a budget. We continue to believe the “X-date” is a moving target that will become clearer following April 18th – when the 2022 federal tax receipts are determined. Earlier today, Speaker McCarthy gave a speech on the debt ceiling at the New York stock exchange where he reiterated that a debt limit increase without spending cuts will not pass the House of Representatives. He also announced that the House will vote on its own proposal in the coming weeks that will raise the debt limit into next year while also cutting spending. The current state of play and RFA’s take on expected forthcoming activity is outlined below.</p> <p>Negotiations: On March 28th, Speaker McCarthy sent a letter to the President urging him to begin negotiations and, for the first time, outlining several examples of the types of proposals House Republicans would like to discuss. In our view, this letter – coming on the heels of the House Republicans’ retreat – signals an effort by House GOP lawmakers to expand the scope of issues potentially available for negotiation beyond the usual budgetary and appropriations items.</p> <ul style="list-style-type: none"> • McCarthy’s examples, which he stressed were not exhaustive, included cutting non-defense discretionary spending to “pre-inflationary” levels and limiting out-year growth; rescinding unspent pandemic aid; strengthening certain benefit programs’ work requirements for able-bodied adults without dependents; energy policy initiatives to spur more domestic production; and border security measures to stop the flow of fentanyl. • Additional House GOP policy ideas that were not included in the Speaker’s letter, but that we understand are under discussion, include prohibiting federal student loan forgiveness, repealing some green tax credits, and enacting the REINS Act, which would

	<p>require Congress to approve any federal rule or regulation the Office of Management and Budget determines to have an economic impact of \$100 million or more.</p> <p>House GOP Budget: The President has stated adamantly that he will not negotiate over the debt ceiling. That said, he has indicated he'd entertain a separate discussion over budget and spending items – but has insisted that House Republicans produce a budget before those negotiations take place (the Administration submitted an FY2024 budget in early March). Despite the best efforts of House Budget Committee Chairman Arrington (R-TX), we continue to hear from elements of the House Republican conference that it will be difficult to craft a budget that can garner the necessary 218 votes in the House. If the House Budget Committee does produce a budget, it won't be any time soon.</p> <ul style="list-style-type: none"> • Republican Study Committee (RSC) Chairman Hern (R-OK) has indicated, however, that the RSC plans to issue its own budget during the week of April 17th which will provide some granularity of House Republicans' position, albeit not the official position. • We continue to hear that House Republicans are entertaining a “Deeming resolution” which is legislation that is deemed to serve as an annual budget resolution for the purposes of establishing enforceable budget levels for a budget cycle. A deeming resolution would allow the House Appropriations Committee to begin writing bills to the designated budget levels and begin the Appropriations process, absent an actual agreed-upon budget. <p>Short-Term Extension: We have been told, and subsequent news reports and Speaker McCarthy have confirmed, that House Republican Leadership is working to put together a package that would increase the debt ceiling until May 2024 and would include most of the GOP policy priorities outlined above. House Republican Leadership is seeking to counter the Administration and Congressional Democrats' claims that the Republicans have no plan. Enacting such a package would also obviate many of the budget creation issues the House GOP is facing. While this legislation would be a House GOP-only effort, the view on both sides of the Capitol is that it would demonstrate that Republicans have an alternative proposal to the President and Congressional Democrats and would increase pressure on the President to negotiate. If the House Republican plan is shelved or does not pass, there is little incentive for the parties to negotiate and do anything but a clean debt ceiling increase.</p>
<p>CONGRESSIONAL ACTIVITY</p>	<p>In addition to robust Banking and Financial Services Committee agendas (more below), several additional hearings are on our radar for April. Among these is an appearance from FTC Chair Khan and Commissioners Slaughter and Bedoya before the House Energy & Commerce Committee (4/18), and from IRS Commissioner Werfel before the Senate Finance Committee (4/19). Both are budget-focused, but we expect tough questioning from GOP members on the agencies' agendas (including fierce criticism of the FTC's proposal to ban non-competes). Additionally, the House Ways & Means and Senate Judiciary Committees are each holding China-focused hearings – further emphasizing the bipartisan, bicameral focus on the matter, including on committees outside the primary jurisdiction. Senate Budget Committee Chair Whitehouse (D-RI) has also slated a hearing for tomorrow (4/18) intended to focus on “tax dodging” by big corporations (the witnesses are two academics, so we don't expect the discussion to be legislative in nature).</p> <p>On the House Floor, we'll see several suspension bills relating to Chinese telecommunications threats and holding China accountable for violating U.S. airspace via its surveillance balloon. We also anticipate a GOP-led effort to override President Biden's recent veto which upheld the EPA's clean water rule. The Senate will start the work period off this evening by considering the nomination of Radha Plumb to be Deputy Under Secretary of Defense. Notably, Minority Leader McConnell (R-KY) and Sen. Fetterman (D-PA) will return this week marking the first day back for McConnell in five weeks and Fetterman in six, but Senate Democrats' issue with absences will continue, with Sen. Feinstein (D-CA) out indefinitely due to illness. This will further impair the</p>

Senate Judiciary Committee's growing backlog of judicial nominees (Feinstein's absence creates an even 10-10 split on the Committee) and deters any controversial votes on the Senate floor.

FY2024 Appropriations

A significant focus will also be placed on budgetary items this month, despite Congress missing the statutory April 15th deadline for passing an FY2024 budget resolution. For reference, this is the 20th year in a row Congress has been unable to meet this deadline, so we view the real impact of this as just inevitably pushing FY2024 funding negotiations – yet again – down to the wire. Senate and House Appropriations Committees spent the latter half of March holding a series of hearings featuring various agency heads to discuss FY2024 budget requests including Treasury Sec. Yellen in four committees and SEC Chair Gensler in the House Appropriations Financial Services and General Government (FSGG) Subcommittee (he is not as of yet slated to appear before Senate FSGG). Lead Senate appropriators, Sens. Murray (D-WA) and Collins (R-ME), have tentatively scheduled nine additional Subcommittee budget hearings for April and ten more for May/June, and the House Appropriations Committee has fourteen slated for just this week alone. These include appearances from HUD Secretary Fudge in both Committees (4/18 and 4/20), Education Secretary Cardona (4/18), Commerce Secretary Raimondo (4/18 and 4/26), Transportation FEMA Administrator Criswell (4/18), and Secretary Buttigieg (4/20), among others.

Nominations

Two of the most prominent outstanding positions the Biden Administration needs to fill are for Vice Chair of the Federal Reserve and Secretary of the Department of Labor (DOL). Senate HELP Committee Chair Sanders (I-VT) has slated a nomination hearing on April 20th to consider Julie Su to be DOL Secretary. She was confirmed to her current post as Deputy Secretary by a party-line vote, and we expect her path to confirmation to be even more challenging this time around, with Sen. Manchin (D-WV) already voicing his concerns. There has been no formal nominee selected to replace Lael Brainard as Vice Chair of the Fed, and it's unlikely a decision will be made this month. As of now, it appears that Janice Eberly, the former Assistant Secretary of the Treasury for Economic Policy under the Obama Administration, is the front runner. That said, we expect Sen. Menendez (D-NJ) and other Democratic Senators to continue to push the Biden Administration to appoint a Hispanic or Latino American to the position. Senate Banking Committee Chair Brown (D-OH) has also been supportive of these efforts.

Legislative Response to Recent Bank Failures

At this point, we expect any forthcoming action is more likely to be regulatory in scope, rather than legislative, and that any potential rule changes will follow the May 1st regulatory reports (see Regulatory section). That said, the issue will continue to be front of mind for many in Congress, and we've seen a number of proposals emerge in response to the recent volatility in parts of the banking industry. We also expect the prudential regulators to testify for their mandated Congressional appearance – likely in May or early June– and will be pressed on their findings.

- Seemingly, the most bipartisan efforts at this point involve proposals to provide regulators with the authority to claw back executive compensation from the failed banks. Clawback legislation led by Sens. Warren (D-MA), Cortez Masto (D-NV), Hawley (R-MO), and Braun (R-IN) has sparked recent attention, and several other lawmakers, including SBC Chair Brown (D-OH), HFSC Ranking Member Waters (D-CA), Sen. Van Hollen (D-MD), and Sen. Kennedy (R-LA) have indicated plans to release their own proposals.
- Another legislative response that has some bipartisan support is revisiting the \$250k FDIC insurance cap. While members on both sides of the aisle have floated ideas for reform, such as raising the cap or insuring all non-interest-bearing accounts, the House Freedom Caucus has voiced their disapproval of any changes to the deposit insurance system, essentially killing any likelihood of legislation passing out of the House. That

	<p>said, we expect the FDIC’s upcoming report on the matter to spearhead more conversations on reform, but the legislative pathway is challenging.</p> <ul style="list-style-type: none"> • We are skeptical that these bipartisan legislative efforts can ultimately reach the finish line, but as additional information is gathered following both the regulators’ reports and additional SVB-focused hearings, prospects could grow. Additional efforts, including those to repeal aspects of S. 2155, or revise the systemic risk exception/least cost resolution appear to be non-starters as of now.
<p>SENATE BANKING & HOUSE FINANCIAL SERVICES COMMITTEE</p>	<p>Senate Banking Committee (SBC) SBC will kick off the week with a nomination hearing to consider Dr. Jared Bernstein to be the Chairman of the Council of Economic Advisers (CEA), Dr. Ron Borzekowski to be the Director of Financial Research at Treasury, Solomon Greene to be an Assistant Secretary of Housing and Urban Development (HUD), and David Uejio to be an Assistant Secretary of HUD. Both Greene and Uejio had nomination hearings in August 2021, but after being held up in Committee, their nominations expired with the conclusion of the 117th Congress.</p> <ul style="list-style-type: none"> • Additionally, we expect SBC to hold a hearing featuring the three largest credit bureaus the week of April 24th. This oversight hearing has been a priority for Chair Brown, who has long criticized the bureaus for a host of consumer protection concerns. We also expect Ranking Member Scott (R-SC) to advocate for his legislation entitled the Credit Access and Inclusion Act, which he will likely reintroduce in the 118th Congress. • Chairman Brown would like to hold additional SVB-related hearings – but they are unlikely to happen before the forthcoming May 1st reports. Potential witnesses at further hearings include California and New York state-level regulators and the former CEOs of the shuttered institutions. • While unlikely to happen in April, we believe that Chair Brown would like to hold an oversight hearing with HUD Sec. Fudge in the near future given the emphasis the committee has placed on housing issues. <p>House Financial Services Committee (HFSC) We will see another robust schedule for HFSC for the remainder of this month, with at least six hearings – one full committee and five subcommittee – as well as a markup. The most highly anticipated hearing is on April 18th with SEC Chairman Gensler. This will be Gensler’s first appearance before HFSC since Oct. 2021 and his first time before the new Republican majority. Since his last appearance, we’ve seen nearly 40 SEC rule proposals (with numerous more anticipated), over five rules finalized, and an extensive list of enforcement actions, all of which are an open target for GOP scrutiny. We expect a considerable amount of the discussion to focus on the SEC’s enforcement approach to digital assets and other crypto issues, like its qualified custodian rule and SAB 121; questions on the climate disclosure rule’s timing, process, and decision regarding Scope 3; as well as on a number of other topics like its equity market and treasury market proposals, charges filed against Sam Bankman-Fried, and Reg ATS modernization – to name a few. Additional expected hearings are outlined below.</p> <ul style="list-style-type: none"> • On April 19th, the Digital Assets, Financial Technology and Inclusion Subcommittee will hold a hearing on stablecoins. The focus will be on the expected forthcoming stablecoin legislation which we understand is in the process of being crafted (using last year’s McHenry/Waters stablecoin draft as a basis but with expected changes). That said, additional hangups remain, including efforts to again have it be a bipartisan approach, so it’s unlikely the new legislation will be marked-up this month, although we do anticipate movement on a new stablecoin draft bill will precede any market structure legislation. • Also on the 19th, the Capital Markets Subcommittee will hold its fourth and final hearing on capital formation, entitled, “A Roadmap for Growth: Reforms to Encourage Capital Formation and Investment Opportunities for All Americans.” This will set the stage for an expected capital-formation-focused markup on April 26th.

	<ul style="list-style-type: none"> • While we expect the April 26th markup will largely be focused on capital formation proposals, it is possible there could be some legislation in response to recent bank failures and the regulatory response, and CFPB-related legislation included. • Closing out the month, the Subcommittee on National Security, Illicit Finance, and International Financial Institutions will hold a hearing on April 27th on the implementation of FinCEN's Beneficial Ownership rule with the acting FinCEN Director. The Subcommittee on Digital Assets will also likely hold a hearing on cryptocurrency market structure that day, which will likely focus on crypto-exchanges, self-custody and the use of crypto-wallets, and crypto regulation and decentralized finance more broadly. Finally, on April 28th, the Subcommittee on Housing and Insurance will hold its second hearing on flood insurance.
ADMIN AND REGULATORY	<p>Administration Overview: As Washington returns to form, the Biden Administration will face a wide range of contentious issues in the coming weeks. These include abortion pill accessibility, veto threats to Congress regarding its climate and ESG agenda, and declaring which electric vehicles qualify for the full \$7,500 tax credit under the Inflation Reduction Act (IRA) law (which was announced this morning). A few Supreme Court rulings of note could also significantly impact Biden's agenda, including his administration's student debt forgiveness plan and a recent court decision allowing businesses to sue the FTC and SEC more easily for alleged constitutional violations in their oversight of critical economic factors. These topics will undoubtedly receive a great deal of attention, but there are also many other actions to expect in the coming weeks and months.</p> <ul style="list-style-type: none"> • We still anticipate the White House to issue an Executive Order (EO) on outbound investment in the coming weeks and potentially this month. While the details are seemingly still being ironed out, the Administration is expected to scale back initial plans and land on a narrow EO that only includes deal restrictions for certain industries (e.g., semiconductors), rather than including broader investment prohibitions. The administration is also likely to set up a pilot program under which U.S. firms doing new deals with Chinese artificial intelligence and quantum computing firms would have to disclose details to government authorities. • The White House has recently taken steps to revise the government's regulatory toolkit for the first time in several decades. This was done by issuing an Executive Order on Modernizing Regulatory Review in the Office of Information and Regulatory Affairs (OIRA). (The public comment period ends June 6th). • The Administration is also expected to continue its nationwide "Investing in America" tour. Having launched this spring, it focuses on the President's infrastructure agenda and highlights the investments made through the IRA, CHIPS and Science Act, the Bipartisan Infrastructure Law, and the American Rescue Plan. <p>Prudential Regulators: Following the banking crisis, all eyes are on the highly anticipated reports from the Federal Reserve and FDIC expected to be published on May 1st. The substance of the reports remains unclear but will presumably provide much needed information on the matter, as well as detail potential regulatory and supervisory changes, including changes to stress testing and capital and liquidity requirements. See RFA's take on the potential regulatory changes to be considered. This comes alongside the separate ongoing 'holistic' review of capital standards led by Fed Vice Chair for Supervision Barr. Also, on April 18th, the FDIC's Board of Directors will meet to discuss the deposit insurance fund restoration plan.</p> <p>Consumer Financial Protection Bureau: The Bureau continues to steadily move forward with its rulemaking agenda and clamp down on practices and fees it views as harmful to consumers. Most recently, the CFPB finalized its rule implementing the small business data collection provisions of Dodd Frank (1071), publicized the small business review (SBREFA) panel report on its proposal relating to accessing consumer financial records (1033), requested comment on a</p>

statement of policy defining abusive practices, and solicited input on data brokers. We continue to expect Director Chopra to make headlines regarding his thoughts on increasing deposit insurance for payroll accounts and what he sees as failures of regulation relating to Signature and SVB.

We also expect an updated proposal incorporating the feedback of the SBREFA panel relating to consumer access to financial records with the Bureau moving to a final rule in 2024. Additionally, it has been nearly a year and a half since CFPB issued its Oct. 2021 marketing monitoring order to large technology companies operating payments systems in the U.S. We expect Chopra to continue to focus on payments with potential follow-up regulatory action on this market monitoring effort this year. Chopra will continue to focus on non-banks, generally, including potential supervision efforts. Revisions to the CFPB's Advisory Opinion on Earned Wage Access may also occur given Chopra's public letter to GAO where he agreed with the GAO Report recommendation that the 2020 Advisory Opinion should be revisited. Chopra has also signaled that the federal regulators, generally, may look at executive compensation and potentially complete the outstanding Dodd Frank Act Section 954 requirement.

Securities and Exchange Commission (SEC): The SEC continues to move its rulemaking agenda at a rapid pace, and we do not expect this pace to slow down any time soon. As noted above, SEC Chair Gensler is scheduled to testify in the House Financial Services Committee on Tuesday, April 18th. There is no hard stop for this hearing, so we expect it to last for several hours. The SEC had previously noticed an open meeting to finalize amendments to Form PF for March 22nd, but the effort was removed from the agenda before the open meeting took place. We expect the SEC to make another attempt to finalize the Form PF amendments in the next few weeks. In addition, Chair Gensler has indicated that he is concerned about the disruptions in the Treasury market after the bank failures in March, when Treasuries saw their largest one-day price moves in decades. In particular, he is concerned about the role that hedge funds and other non-bank financial institutions played in this episode and has indicated that he intends to examine whether additional regulations on hedge funds or other non-banks are necessary in light of the repeated episodes of stress in the Treasury market.

Financial Stability Oversight Council: On Friday, April 21st, the Financial Stability Oversight Council (FSOC) will meet in executive and public sessions to consider a number of priority issues. First, during an executive session, the Council will hear updates from its Hedge Fund Working Group and Nonbank Mortgage Servicer Task Force. The Council will also discuss its work on updating its entity designation framework in a public session. FSOC has been working to revise its guidance on designation of nonbank financial companies – this effort would amend the 2019 Treasury Guidance issued under the Trump Administration that shifted FSOC's financial stability analysis to an activity and product-based approach. We anticipate that FSOC may issue its new proposed guidance for notice and comment as soon as this upcoming session, which could mean a finalization of the new guidance by the end of 2023. The guidance is expected to more accurately reflect the statutory framework in Dodd-Frank, which allows both an activity and product analysis, as well as a designation of singular entities in the nonbank financial category.