

RICH FEUER ANDERSON

June 2023 Outlook

June 5, 2023



<p>OVERVIEW</p>	<p>The Treasury Department's June 5th X-date has finally arrived, and despite the hysteria that the nation would default on its debt for the first time in history, Congress successfully averted a catastrophic outcome that could have had considerable negative ramifications for the economy. President Biden signed the Fiscal Responsibility Act of 2023 on June 3rd, which will suspend the debt ceiling until 2025, among other things (more below), ending the months-long drama. With the debt ceiling debate in the rearview mirror, Congress is gearing up for a busy month of June, with the Senate in session for fifteen days and the House for twelve. Last month, we saw Congress and regulators zeroed in on the recent bank failures, but with the volatility in the banking sector hopefully ending, Congress's attention will shift to items like the must-pass Fiscal Year 2024 Appropriations legislation and the Fiscal Year 2024 National Defense Authorization Act (NDAA), among others.</p> <p>Congress will also have regular policy agendas and a regular hearing cadence this month, featuring appearances from regulators like Treasury Secretary Yellen, CFPB Director Chopra, and Federal Reserve Chair Powell. Below, RFA has provided our take on notable legislative, regulatory, and administrative activity for the upcoming June work period.</p>
<p>CONGRESSIONAL ACTIVITY</p>	<p>Congressional activity in June is already in full swing. The Senate will kick off the week by considering the nominations of David Crane to be the Under Secretary of Energy and Dilawar Syden to be Deputy Administrator of the Small Business Administration. Meanwhile, the House of Representatives will consider several suspension bills from the House Financial Services Committee capital formation markup in April, such as a bill to expand the definition of an accredited investor under the Securities Act of 1933 and a bill to amend the Securities Exchange Act of 1934 to specify certain registration statement contents for emerging growth companies, among several others. The House may also consider the REINS Act of 2023 this week, as well as other bills such as the Save Our Gas Stoves Act and the Separation of Powers Restoration Act of 2023. Last week, the House and Senate also had robust legislative calendars. Aside from preventing a default on the debt (more below), the Senate had a procedural vote on the Congressional Review Act (CRA) resolution to overturn President Biden's student debt loan repayment pause, which passed in a 51-49 vote with Democratic Sens. Tester (MT) and Manchin (WV), as well as Independent Sen. Sinema (AZ) supporting the resolution. President Biden is expected to veto the measure. Conversely, the House passed a number of capital formation bills last week, such as the Equal Opportunity for All Investors Act and the Promoting Opportunities for Non-Traditional Capital Formation Act, both of which passed with overwhelming bipartisan support.</p> <ul style="list-style-type: none"> • In addition to robust Banking, Finance, Ways and Means, and Financial Services Committee agendas (more below), we are monitoring several other hearings this month. The Senate Judiciary Subcommittee on Intellectual Property (IP) will hold a hearing on artificial intelligence (AI) this month, focusing on patents, innovation, and competition. The hearing will be the first in a series on AI and IP. Additionally, the Senate Commerce, Science, and Transportation Subcommittee on Consumer Protection, Product Safety, and Data Security will hold a hearing on protecting consumers from junk fees. While we expect most of the hearing to focus on junk fees charged by phone, cable, hotel, and

airplane companies, among others, there could be a discussion of junk fees charged by financial companies like overdraft fees and fees for late credit card payments.

- In the House, the Oversight and Accountability Subcommittee on Economic Growth, Energy Policy, and Regulatory Affairs and the Subcommittee on Health Care and Financial Services will hold their second hearing on ESG entitled, “The Cascading Impacts of ESG Compliance.” The hearing will focus on how ESG initiatives impact businesses (especially energy companies), retirees, and consumers. Furthermore, the House Energy and Commerce Subcommittee on Innovation, Data, and Commerce will have a hearing on blockchain technology and the applications for distributed ledger technologies. This will be E&C’s first hearing on blockchain in the 118th Congress. The Education and the Workforce Committee will also hold a hearing on the Department of Labor’s priorities which will feature Acting DOL Secretary Su, whose nomination remains in limbo in the Senate. We expect Republicans to be critical of Su and for them to use the opportunity to inflict further damage on her already flailing nomination.
- With Sen. Feinstein’s (D-CA) return to the Senate last month after a prolonged absence, the Senate Judiciary Committee will hold a nomination hearing and executive business meeting to consider a number of judicial nominations. All the while, the Senate Agriculture Committee will continue to hold hearings this month on the 2023 Farm Bill ahead of its reauthorization deadline in September.
- As you may recall, the Fiscal Year 2024 (FY24) NDAA markup in the House of Representatives was slated for May 9th but was postponed because of issues with the debt ceiling. While the markup has yet to be rescheduled, we think it will occur in June.

Debt Ceiling

On May 31st, the House of Representatives passed legislation suspending the debt ceiling through January 1, 2025, by a vote of 314-117. The Senate followed suit on June 1st by a vote of 63-36.

President Biden signed the critical piece of legislation over the weekend, averting a catastrophic default on the debt. In addition to suspending the debt ceiling, the legislation:

- Establishes statutory caps on discretionary funding for fiscal years 2024 and 2025 that would be enforced by sequestration. Total FY24 discretionary spending is limited to about ~\$1.6 trillion with ~\$886 billion for defense (3% increase from current levels) and ~\$704 billion for non-defense (5% decrease from current levels). However, the legislation rescinds certain funds (e.g., unspent COVID funds) and redirects some of this money toward non-defense discretionary accounts, making non-defense discretionary spending roughly flat year-over-year.
- Sets a 1% growth limit on discretionary funding for each year from 2026 through 2029 that would be enforced using the Congress’s procedures for considering budgetary legislation;
- Rescinds about \$1.8B of funds provided to the Internal Revenue Service (IRS)
- Modifies work requirements for the Supplemental Nutrition Assistance Program (SNAP) and Temporary Assistance for Needy Families (TANF);
- Rescinds unobligated balances from specific accounts provided during the COVID pandemic;
- Amends provisions of current law that regulate permitting of certain proposed energy-related projects by establishing statutory deadlines for Environmental Impact Assessments and Environmental Impact Statements. The bill also expedites completion of the Mountain Valley Pipeline;
- Terminates the current suspension of payments, interest accrual, and collections on student loans 60 days after June 30, 2023;

	<p>Silicon Valley Bank Update Thus far, it appears that efforts to stabilize the banking sector have been successful, as there have been no further bank failures since the collapse of First Republic Bank. After a tumultuous few months, we expect Congress’ attention to finally shift to other pressing items, such as must-pass bills for fiscal year 2024. At this juncture, we don’t believe there will be any legislative response to the recent bank failures regarding capital requirements or bank regulations. While there appeared to be support for reforming the deposit insurance system, we don’t believe there is consensus amongst members to strike a deal. The most likely response to the failures will be clawback legislation. In the Senate, Sen. Warren’s (D-MA) executive compensation clawback proposal gained additional bipartisan support from Banking Committee members as Sens. Vance (R-OH), Britt (R-AL), and Cramer (R-ND) signed onto the bill last week. Chair Brown has also expressed support for clawback legislation. We continue to believe that this proposal is the top prospect to become law as a response to the bank failures, especially as momentum continues to grow for the bill. It is possible that SBC holds a markup for this legislation as soon as this week (see below), which would be the first time the Committee had a markup in years.</p> <p>Nominations Julie Su’s nomination to become Labor Secretary continues to drag on as the Biden Administration tries to line up votes in the Senate to support her. We believe a vote on the nomination will likely happen this month and as early as this week. Su will be appearing before the House Education and the Workforce Committee in her acting capacity this week, which could help or hurt her nomination depending on her performance. Sens. Manchin and Sinema are key votes to watch during this confirmation battle. According to reports, Sen. Manchin is already looking for alternatives to Su. We believe her nomination is more likely to be withdrawn the longer the process is drawn out. Regarding the Federal Reserve nominees, the Senate Banking Committee will likely hold hearings for Fed Governor Phillip Jefferson to be the Fed’s Vice Chair, Adriana Kugler to be a Governor of the Federal Reserve Board, and Lisa Cook for a full term as Governor later this month. As we’ve stated before, we don’t expect this nomination hearing to be partisan since both nominees received widespread support from Senators as little as 14 months ago. The Banking Committee favorably reported Fed Governor Jefferson in a 24-0 vote. However, we expect him to receive more scrutiny since he is up for the elevated position of Vice Chair.</p>
<p>SENATE BANKING & HOUSE FINANCIAL SERVICES COMMITTEE</p>	<p>House Financial Services Committee The House Financial Services Committee has a busy three weeks before the Fourth of July recess. Most notably, they will have several oversight hearings with federal financial regulators, including Treasury Secretary Yellen, CFPB Director Chopra, Federal Reserve Chair Powell, and key SEC staff, including the Trading and Markets Division Director, Chief Economist, and General Counsel. Outside of regulatory oversight, the Committee will hold a full committee hearing on digital asset market structure legislation that Chairman McHenry (R-NC) released jointly with House Agriculture Committee Chairman Thompson (R-PA). We expect that they will move to markup that legislation, as well as their stablecoin bill, in July. The current schedule for the month is below:</p> <ul style="list-style-type: none"> • June 6 – Financial Institutions Subcommittee hearing on the Debt Ceiling X Date • June 7 – National Security Subcommittee hearing on dollar dominance • June 13 – Full Committee hearing with Treasury Secretary Yellen • June 13 – Full Committee hearing on digital assets legislation • June 14 – Full Committee hearing with CFPB Director Chopra • June 21 – Full Committee hearing with Federal Reserve Chair Powell • June 21 – Oversight Subcommittee hearing with SEC General Counsel • June 22 – Capital Markets Subcommittee hearing with SEC T&M Director and Chief Economist

	<p>Senate Banking Committee Like the House Financial Services Committee, the Senate Banking Committee will hold several key regulatory oversight hearings this work period. We expect hearings with CFPB Director Chopra the week of June 12, and Federal Reserve Chair Powell the week of June 19. In addition, we expect the Committee will hold its first real markup in years this week, where they will potentially consider legislation on executive clawbacks, fentanyl, and possibly housing legislation. We also expect the committee to consider the nominations of Dr. Jefferson to be Vice Chair of the Federal Reserve, Dr. Kugler to be a member of the Federal Reserve Board of Governors and Dr. Cook for a full term this work period.</p>
<p>SENATE FINANCE AND WAYS AND MEANS COMMITTEE</p>	<p>Ways and Means Committee With the debt limit issue resolved, the House Ways & Means Committee is pivoting to its economic package. As a reminder, the committee has been holding field hearings that have been building a list of policy priorities for the jobs package. The package is likely to include restoring R&D expensing in place of the Section 174 R&D 5-year amortization requirement, the prior-law calculation for the 163(j) interest deduction limitation and extending the 199A deduction beyond 2025. The goal is to have this package on the floor by the end of the month or in early July. One of the dynamics to watch is on the issue of the state and local tax deduction (SALT). Members of the Republican conference who represent NY and CA districts will likely want to include relief for their constituents, but ultimately, we don't believe that SALT will be a part of the package as it expires in 2025.</p> <p>In May, Chair Smith (R-MO) released legislation that seeks to address member concerns with discriminatory taxes being levied against U.S. Multinational Enterprises (MNEs) by foreign jurisdictions. The OECD project known as Pillar 2 includes a provision called the undertaxed profits rule, which would impose a certain level of taxation on companies that fail to meet a minimum level of taxation of 15%. The bill the Chairman and every Republican member of the committee introduced would ask the Treasury to identify countries that have implemented discriminatory taxes (UTPRS and DSTs), and then include a reciprocal tax on companies on individuals that are headquartered in those jurisdictions. The bill is not likely to garner enough support to become law, but we would expect Committee and potential floor action on the bill as a sidecar to the economic package.</p> <p>Additionally, the Committee will continue to focus on healthcare (with a markup next week) and trade (more hearings).</p> <p>Finance Committee The Senate Finance Committee (SFC) is holding a joint hearing with the Small Business Committee on tax complexity from a small business perspective. It is unclear if there are other hearings planned at the moment, but Chair Wyden (D-OR) has signaled a continued desire to highlight problems in the tax world with high-net worth individuals and corporations that are facilitating "tax evasion." We've also heard that SFC may hold a hearing on consolidation in the healthcare space, which could feature discussions on private equity given its growing list of healthcare acquisitions (ERs, Physician practices, etc.) and given Chair Wyden's disdain for the industry.</p>
<p>ADMIN AND REGULATORY</p>	<p>Administration Overview The Biden Administration is expected to refocus on its "Investing in America" agenda in light of the successful conclusion of the debt ceiling negotiations, which includes increasing flood resilience, enhancing community resilience to wildfire, and modernizing the electrical grid, as well as further implementing the Inflation Reduction Act. The Administration will also emphasize federal preparedness, response, and recovery to prepare for the Atlantic hurricane season.</p> <ul style="list-style-type: none"> • The Biden Administration also aims to release a highly-anticipated executive order regulating outbound investments in China's defense industry. The Administration has

been soliciting feedback from think tanks and investment firms as it works to calibrate the executive order. Instead of adhering to pressure to release the executive order by a specific date, the Administration has taken its time with a more targeted approach, focusing on semiconductors, artificial intelligence, and quantum computing. The executive order has been in the works for months, and while it could be issued in June, exact timing is still unknown.

- The Supreme Court is expected to rule on the legality of student loan forgiveness later this month. The issue has become increasingly important as a political topic, with both sides debating its merits.
- As one of the most recent announcements coming from the White House regarding its plans to focus on the development of artificial intelligence (AI), the Administration plans to invest in AI research and development as well as create a regulatory framework for the industry.

Regulators

Following the Federal Open Market Committee's (FOMC) decision to raise interest rates by a quarter-point in May, Federal Reserve Chairman Jerome Powell indicated that the FOMC could potentially keep rates unchanged at its upcoming June meeting, although no final decision has been made. Several Federal Reserve officials, including Fed Governor Jefferson and Philadelphia Fed President Patrick Harker, have expressed their preference for holding interest rates steady in June to gather more data before making further policy decisions. However, other officials, including FOMC voters and nonvoters, have signaled support for continuing rate hikes due to concerns about inflation and economic activity. Minneapolis Fed President Neel Kashkari remains open to both raising rates and skipping a hike.

- **Basel III Endgame:** The implementation of the highly anticipated Basel III endgame is approaching, with the FDIC tentatively scheduling a meeting on a Notice of Proposed Rulemaking (NPR) in the last week of June. The Fed is also aiming for a Board-level approval around the same time, although there may not be a formal board meeting for this purpose. Additionally, a separate NPR reporting template is expected to be released by the end of June, accompanied by a Quantitative Impact Study (QIS) conducted by the Fed during the comment period. In addition to the Basel III endgame, Fed Vice Chair for Supervision Michael Barr mentioned during a hearing in early May that the comprehensive review of the bank capital framework, which has been highly anticipated, is expected to be finalized sometime this summer.
- **FDIC Special Assessment:** The FDIC last month approved a proposed rulemaking that would implement a special assessment to recover costs associated with protecting uninsured depositors after the closures of Silicon Valley Bank and Signature Bank and is expected to be implemented in late June. This action is required by the Federal Deposit Insurance Act following a determination of systemic risk. The proposed assessment would be applied to banking organizations that benefited the most from protecting uninsured depositors, ensuring fairness and consistency based on the number of uninsured deposits. The proposal also aims to maintain liquidity to meet the credit needs of the US economy. The FDIC estimates that about \$15.8 billion of the total cost of the failures of Silicon Valley Bank and Signature Bank was attributed to protecting uninsured depositors. Around 113 banking organizations would be subject to the special assessment, with larger banks paying the majority. No banks with total assets under \$5 billion would be subject to the assessment. The proposed special assessment would be collected at an annual rate of approximately 12.5 basis points over eight quarterly assessment periods. However, the rate is subject to change based on adjustments to loss estimates, mergers or failures, or revisions to reported estimates of uninsured deposits.

	<p>Consumer Financial Protection Bureau</p> <p>Director Chopra continues to argue large, complex financial institutions, FinTechs, and technology companies pose unique risks to consumers and the financial system at large. From his time at the FTC and now at the Bureau, Chopra is focused on real and potential anticompetitive behaviors these firms could exhibit based on the data they hold. Chopra sees the upcoming rulemaking implementing Section 1033 of Dodd-Frank (access to consumer financial data) as critical to opening competition in the consumer financial markets and tilting the balance of power in banking relationships toward consumers – giving them an easier ability to “vote with their feet.” The next update where we hope to gain insight into the timing of 1033 and other Bureau rules will be at the HFSC and SBC hearings with Director Chopra later this month.</p> <ul style="list-style-type: none"> • The Bureau has continued to aggressively investigate consumer protections related to nonbank payment apps like Venmo and Cash App. Most recently, the Bureau published a consumer advisory that warned consumers that their funds stored in the apps likely do not have deposit insurance. From his seat as an FDIC Board member, Chopra has also advocated for instituting a risk-based deposit insurance regime where a large bank, or one participating in riskier activities, would pay more in deposit insurance than a small more straightforward bank. He is also arguing that a risk-based regime should be countercyclical, so regulators do not have to raise premiums when banks are facing uncertain economic environments. • Also added to the list of upcoming dates is a comment deadline from a June 1st proposal by the Bureau, this time related to quality control standards for automated valuation models. The proposed rule, issued jointly by the CFPB, OCC, FDIC, the Fed, NCUA, and FHFA, seeks comments within 60 days of publication in the Federal Register. <p>Securities and Exchange Commission</p> <p>This week, the SEC is scheduled to finalize proposals related to security-based swaps transactions – to prevent fraud, manipulation and deception as well as preventing personnel of security-based swap dealers and major security-based swap participants from pressuring Chief Compliance Officers. The Commission also will consider amendments to Regulation M (designed to prevent manipulation of the price of an offered security) and CAT fees. Looking ahead, the SEC still views cybersecurity for public companies as a priority, not to mention the numerous proposals that await finalization (too many to list here). One additional area to pay attention to is the SEC’s and Capitol Hill’s potential reactions to the Supreme Court’s decision last week in <i>Slack Technologies v Pirani</i> and the future of direct listings, which the SEC only authorized five years ago in 2018.</p> <p>Treasury</p> <p>The last month has seen Treasury playing a leading role in providing technical analysis and funding guidance related to the debt ceiling. As noted above, HFSC will conduct a hearing to examine how the X date is calculated and alternatives to consider. Treasury will be back in the news as a result. Later in the month, Secretary Yellen will testify in front of the Committee. We expect questions related to the debt ceiling dynamics, proposed FSOC guidance, and the health of the U.S. banking system.</p>
<p>POLITICAL</p>	<p>Race for the White House 2024</p> <p>Despite being a year and a half away, the 2024 presidential race is well under way as several Republican candidates have announced their bids to unseat President Biden. Aside from former President Donald Trump, other Republicans that have entered the fray include Florida Governor Ron DeSantis, former South Carolina Governor Nikki Haley, former Arkansas Governor Asa Hutchinson, and most recently, South Carolina Senator and SBC Ranking Member Tim Scott. The Republican field is also expected to grow with anticipated announcements from former New Jersey Governor Chris Christie and former Vice President Mike Pence early this month. Despite a crowded field, former President Trump currently maintains a strong position, leading with a</p>

significant margin of +30.8 against his rivals. Notably, he holds a substantial lead over Florida Governor DeSantis, his most prominent challenger thus far. We expect polling numbers to fluctuate in the coming months as the campaign season progresses. Still, former President Trump's strong polling comes as no surprise given his continued chokehold and influence on Republican Party politics.

Although polling numbers this far from the election should be viewed skeptically, it is worth considering some key trends for the incumbent candidate. President Biden's approval ratings on important issues have declined in recent months, particularly regarding the economy (36% approval), inflation (32% approval), and foreign policy (41% approval). Despite this, President Biden performs well in head-to-head polling against former President Trump. The average polling suggests a close race, with almost equal support for both candidates. As we approach November 2024, RFA will provide regular analyses of the 2024 congressional and presidential elections.