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# October 2023 Outlook

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<p><b>OVERVIEW</b></p>	<p>As we enter a second week without a House Speaker, we wanted to provide a brief outlook of issues that Congress must handle before the end of this legislative session, although actions on these issues will occur after the House’s Speaker situation is resolved. We will also break down expected actions from the federal regulators. Given the uncertainty and fluid nature of efforts to confirm a new Speaker, we do not opine on that situation here. The main issue in Congress continues to be government funding as we head towards November 17<sup>th</sup>, the date by which Congress must pass an appropriations package or another CR to avert a government shutdown. Aside from working through the appropriations process, Congress still has several other legislative priorities to address, such as passing a Fiscal Year 2024 National Defense Authorization Act (FY24 NDAA), a farm bill, and reauthorizing the National Flood Insurance Program (NFIP) and the Federal Aviation Administration (FAA) Act, among others. Additionally, the surprise military assault on Israel by Hamas has created yet another geopolitical risk that lawmakers will likely need to address through an Israel-specific aid package. While we would normally expect ample committee business over the coming weeks, including robust hearing schedules, many committee agendas are in flux given the uncertainty in the appropriations process and the lack of a House Speaker. Below, RFA provides our high-level take on notable activity at the legislative, regulatory, and administrative levels for this unusual October work period.</p>
<p><b>CONGRESSIONAL ACTIVITY</b></p>	<p>As expected, picking a new speaker and the appropriations process will take up most of the oxygen in Washington D.C. for the foreseeable future. However, there are other key topline priorities lawmakers must address, such as passing a farm bill, reauthorizing the FAA, reauthorizing the NFIP, and passing an FY24 NDAA. Many of these priorities are intertwined with the appropriations process. There will also be a regular cadence of hearings this month in the Senate. In the House of Representatives, legislative activity is more uncertain until there is an elected Speaker.</p> <ul style="list-style-type: none"> <li>• Regarding other activity on the Hill, Senate Majority Leader Schumer’s (D-NY) bipartisan AI insight forums will continue this month. The upcoming forum will focus on how the government can encourage innovation in the sector to mitigate risks. AI policy continues to be front and center as the emerging technology permeates different economic sectors. So far, both Leader Schumer and Sens. Blumenthal (D-CT) and Hawley (R-MO) have released their own respective AI frameworks, and another proposal from Sens. Thune (R-SD) and Klobuchar (D-MN) is expected in the coming days and weeks.</li> <li>• RFA continues to closely monitor the <i>Credit Card Competition Act</i> (CCCA). Sens. Durbin (D-IL) and Marshall (R-KS) were both given “assurances” by Leader Schumer that the legislation would receive a vote on the Senate floor at some point in the 118th Congress. Furthermore, we’ve learned that a growing number of Senators have grown frustrated with Sen. Marshall’s efforts to include the CCCA in the various appropriations bills. Both Senators have not relented in their pressure campaign, and this, coupled with strong advocacy efforts from the merchants, could force a vote on the matter. That said,</li> </ul>

	<p>it is not clear whether their pressure campaign will result in a vote this month as the Senate continues to process spending bills.</p> <ul style="list-style-type: none"> <li>• Leader Schumer promised a full floor vote on the <i>Secure and Fair Enforcement Regulation (SAFER) Banking Act</i> after it was passed out of the Banking Committee at the end of September by a vote of 14-9. While the Leader promised to bring this legislation to the floor with “all due speed,” we think it is unlikely the legislation will move this month. Additionally, we believe there are other obstacles in bringing the bill to the floor for a vote, such as ongoing Republican concerns with Section 10, opposition from Minority Leader McConnell (R-KY), and Democratic concerns about the lack of criminal justice aspects of the legislation. Additionally, there is likely not a strong appetite amongst lawmakers to bring the bill to the floor, as it poses the risk of forcing votes on other banking related bills.</li> </ul> <p><b>FY24 Appropriations</b>          Congress averted a government shutdown two weeks ago in a surprising turn of events that resulted in Speaker McCarthy losing the gavel. The CR, which funds the government until November 17<sup>th</sup>, also allocates disaster relief funds for Hawaii, California, and Florida, as well as extends the NFIP and FAA. The CR gives lawmakers more time to pass individual appropriations bills, but there remain outstanding differences between the Senate and House on many of these bills. We think it is likely Congress will need to come together to pass another CR given the current uncertainty in the House.</p> <p><b>FY24 NDAA</b>          While all eyes in Washington D.C. are focused on appropriations and the Speaker race, the conference process for the Fiscal Year 2024 NDAA is well underway. Conferees have ample work ahead of them given the notable differences between the House and Senate-passed defense policy bills. While the Senate version of the NDAA passed with overwhelming bipartisan support, the House version of the defense bill passed on a 219-210 party-line vote in July. The most notable item RFA is watching during this conference process is Sen. Cornyn (R-TX) and Casey’s (D-PA) <i>Outbound Investment Transparency Act</i>, which was included as an amendment in the Senate-passed NDAA. The amendment, which passed in an overwhelming 91-6 vote, would require US entities to notify the Treasury Department about covered outbound investments, acquisitions, and other business activities in hostile countries like China, Russia, Iran, and North Korea. We think it is likely that the Cornyn/Casey amendment is included in the final version of the NDAA. Additionally, we don’t expect the conference process to slow down because of uncertainty in the House.</p> <p><b>Nominations</b>          Last month, the Senate Committee on Commerce, Science, and Transportation held a hearing to consider the nominations of Rebecca Kelly Slaughter, Melissa Holyoak, and Andrew Ferguson to be commissioners of the Federal Trade Commission (FTC). If confirmed, Holyoak and Ferguson would fill the two empty Republican seats on the FTC, which have been vacant since Commissioner Christine Wilson’s departure six months ago. Final confirmation for these three nominees remains uncertain, but the nominations could move as early as this month depending on floor time. Additionally, President Biden renominated SEC Commissioner Uyeda and CFTC Commissioner Mersinger in June for full terms at the SEC and CFTC, respectively. We expect both nominations to go through the regular confirmation process.</p>
<p><b>SENATE BANKING &amp; HOUSE FINANCIAL</b></p>	<p><b>House Financial Services Committee</b>          The House Financial Services Committee schedule continues to be up in the air given the current fluid situation. We expect several regulatory oversight hearings later in the fall, including an oversight hearing featuring the prudential regulators in November and CFPB Director Chopra likely in December. We also expect there could be potential hearings this month focused on Iran/sanctions, insurance, and fintech. That said, it is unclear if any hearings will take place in</p>

<b>SERVICES COMMITTEE</b>	<p>HFSC this month given that HFSC Chair McHenry is currently serving as the active Speaker Pro Tempore. In addition, we believe there could be oversight hearings this fall with FHFA Director Thompson and HUD Secretary Fudge, as well as Treasury Secretary Yellen's semi-annual FSOC testimony.</p> <p><b>Senate Banking Committee</b> This week, the Senate Banking Committee will have a nomination hearing for Mark Uyeda to serve another term as SEC Commissioner, as well as a number of other nominees for positions in SIPC, the FDIC, Ex-Im Bank, and the NCUA Board. SBC will also hold a hearing this month on Iran/Israel, potentially as early as the week of October 23<sup>rd</sup>. While digital assets will not be the central focus of the hearing, it is likely the topic emerges in the context of funding terrorism. Additionally, SBC's subcommittee on Housing, Transportation, and Community development will also hold a hearing this week on CDFIs. SBC will also likely hold oversight hearings with the prudential regulators in November and Director Chopra in December. SBC is also set to have eight large bank CEOs testify on December 6<sup>th</sup>.</p>
<b>SENATE FINANCE AND HOUSE WAYS AND MEANS COMMITTEE</b>	<p><b>Senate Finance Committee</b> The Senate Finance Committee is only slightly hampered by the uncertainty with government funding. Pending legislative items include a Taiwan tax bill and a potential bill related to Pharmacy Benefit Managers. Additionally, the committee could advance a number of nominees this month, such as Majorie Rollinson to be Chief Counsel at the IRS and Patricia Neuman to be a Public Trustee of Social Security and Medicare.</p> <p><b>Ways and Means Committee</b> We expect a quieter month for the Ways and Means Committee considering the fluid situation in the House. The House Ways and Means Committee already put scheduled field hearings in Pennsylvania and North Carolina on hold.</p>
<b>ADMIN AND REGULATORY</b>	<p><b>Biden Administration</b> President Biden is reportedly discussing a visit to Israel this week. The visit aims to show support for Israel in its war against Hamas and to dissuade Iran and Hezbollah from joining the conflict. Israeli Prime Minister Benjamin Netanyahu invited Biden during their Saturday phone call, but no decision has been made yet by the White House.</p> <p>The Administration plans to announce new export controls on artificial intelligence chips and equipment that could be sold to China. These restrictions aim to prevent China from gaining a military advantage in AI. The new rules will close existing loopholes and apply to chips that have advanced capabilities. They will also limit the export of equipment used for producing advanced semiconductors. However, the administration is trying to balance national security concerns with the potential impact on China's economy. In August, an executive order was signed to restrict private investments in Chinese companies in specific industries, thereby preventing the transfer of American know-how. The Biden administration hopes that other G-7 and EU countries will impose similar restrictions.</p> <p>The Biden Administration is also expected to continue its Investing in America tour with a strong emphasis of tour stops in red states, where Administration leaders travel across the country to showcase the benefits of "Bidenomics" and the President's Investing in America plan. This initiative aims to create hundreds of thousands of jobs and is crucial to the Democratic re-election campaigns in 2024. A contrast is being drawn between Biden's climate and infrastructure legislation, which the White House claims is critical to the country's economic growth, and the public opposition of Republican lawmakers.</p> <p><b>Prudential Regulators</b> The comment period for several prudential regulatory proposed rules is currently open through November 30, 2023, including <a href="#">the Basel III endgame package, adjustments to the surcharge for</a></p>

[U.S. global systemically important banks](#), imposition of a [Long Term Debt \(“LTD”\) requirement](#), [guidance to enhance resolution planning for banks with \\$100 billion or more in assets](#) and [Guidance for Dodd-Frank Act Resolution Plan Submissions of Triennial Full Filers](#).

On the regulatory front, we continue to expect federal regulators – led by the Federal Reserve Board Vice Chair for Supervision Barr – to pivot toward additional regulatory responses following the failure of Silicon Valley Bank and Signature Bank earlier this year. We expect liquidity rules, including changes to the Liquidity Coverage Ratio and Net Stable Funding Ratio, as potentially on the table. Moreover, [FDIC Vice Chair Hill spoke to the Cato Institute on September 21, 2023, providing “insights on FDIC’s agenda”](#) where he highlighted several forthcoming issues including supervision, bank merger policy, liquidity rules, and climate change. Additionally, we expect that the final Community Investment Act rule to be released soon. The deadline for submitting comments on the Notice of Proposed Rulemaking was on August 5<sup>th</sup>, 2022.

### **Securities and Exchange Commission**

After a busy few months that saw the SEC finalize four major rules (private fund advisers, money market fund reform, cybersecurity rules for public companies, and the investment company names rule) and propose a controversial rule on predictive data analytics, we expect the SEC to treat the last three months of 2023 as a sprint-to-the-finish. This is especially true given the possibility of a government shutdown in mid-November — which would grind the agency’s rulemaking agenda to a halt as staff from all the rule-writing offices would be furloughed.

The next two months could see a number of final rules, including Treasury clearing and cybersecurity for investment advisers and broker-dealers. The SEC already had two meetings this month to adopt rules related to securities loan reporting, beneficial ownership reporting, and short sale disclosure. The SEC will also meet on Wednesday to consider whether to propose a new rule to prohibit national securities exchanges from offering volume-based transaction pricing in connection with the execution of agency-related orders in NMS stocks. In addition, the SEC is getting close to proposing a rule on human capital management disclosure, which we expect before the end of the year and as soon as this month.

### **Consumer Financial Protection Bureau**

Earlier this month, the Supreme Court heard oral arguments for the case challenging the constitutionality of the Bureau’s funding structure. We don’t expect a result in this case until the spring or summer of 2024. Nevertheless, the Bureau has a busy fall regulatory agenda, which is not expected to slow down due to the Supreme Court case. The SBREFA process for the recently announced data broker rule amending the Fair Credit Reporting Act is underway and a proposed rule on consumer data rights implementing Section 1033 of the Dodd-Frank Act is expected this month. The CFPB also was expected to put forth a rule on credit card late fees this month, but the timing of this one could slip until later this year. The Bureau is also expecting pre-rule activity related to insufficient funds fees and overdraft fees in November and is now overdue on the July date indicated for a larger participant rule for consumer payment markets. We understand that the Bureau continues to contemplate revisions to its Earned Wage Access Advisory Opinion and may issue revisions in the near future.

### **Treasury/FSOC**

On Friday, September 22, FSOC held an executive session meeting to discuss the proposed guidance on nonbank entity designation. Our understanding is the meeting was focused on a staff-level presentation of the comments received to date and allowed principals a chance to ask questions and give feedback. We anticipate at least one more FSOC meeting before the traditional December meeting where they will vote to release the annual report and could vote to finalize the nonbank guidance.