



ML Strategies Update

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End of Year Legislative Agenda

With the House and Senate in recess this week for the Thanksgiving holiday, there are now only a very limited number of scheduled legislative days left for the year – 12 in the House and 15 in the Senate – and there is increasing talk that both chambers will leave for the holidays by Friday, December 11th, which would mean even fewer days. This is an incredibly tight calendar with a number of large measures awaiting action, but there are signs that this Congress is starting to work more smoothly and can rise to the occasion, although in the current political environment nothing is certain.

Do recent developments signal continued legislative successes in December?

- Federal activities are currently funded through a Continuing Resolution (CR) that lasts until December 11th, and Congress in late October approved a two-year budget agreement, the Bipartisan Budget Act, that raises both domestic and defense spending levels, while also suspending the debt limit until 2017, meaning that these issues will not arise again during the Obama presidency. However, this leaves a final resolution of Fiscal Year 2016 appropriations for the coming weeks.
- The most recent surface transportation authorization was set to expire on November 20th, putting a great deal of pressure on Congress to reach an agreement on a multi-year reauthorization. While we aren't quite there yet, the authorization was further extended until December 4th, giving the House and Senate transportation bill conferees extra time to negotiate the final sticking points on a multi-year agreement, which also includes a renewal of the Export-Import Bank, the authorization for which expired over the summer.
- Despite an earlier veto of the annual National Defense Authorization Act (NDAA) by

President Obama over the way in which the bill funded some defense activities, a revised NDAA has been approved and sent to the President for signature. The bill has been signed into law for 53 consecutive years, and the President is expected to sign this new bill.

Fiscal Year 2016 Appropriations. With the new two-year budget agreement signed by the President, appropriators in the House and Senate are working feverishly to wrap up work on Fiscal Year 2016 spending, which will be in the form of an Omnibus bill that captures all 12 of the annual spending bills. Following the tragic events of Paris, some in Congress had indicated that they want to use the spending bill to address the issue of Syrian refugees, but new House Speaker Paul Ryan has come out against that and said that the issue should be addressed separately.

Still under consideration are a number of other policy riders that could be attached to the Omnibus, primarily aimed at the Obama Administration's policies on energy and the environment, implementation of Dodd-Frank, and Obamacare.

While many breathed a sigh of relief when the Bipartisan Budget Act was approved last month, there is still the threat of a government shutdown in December – but over policy riders, not spending levels. We'll know more soon, but the current expectation is that the Omnibus is completed by the week of December 7.

Tax Extenders. The Omnibus or highway bill, or possibly the Customs bill discussed below, could be used as the vehicle for a tax extenders package of more than 50 provisions covering everything from the deductions for renewable energy and energy efficiency to mortgage insurance premiums and bonus depreciation. Negotiations are ongoing, but the general expectation is that there will be a two-year extension of these expiring tax provisions, with many lawmakers wanting to avoid having to address this issue again next year at the height of the presidential campaign. There is also some talk about including a repeal or implementation delay of the Affordable Care Act's so-called Cadillac tax.

Bills poised for final action – but when?

Customs Reauthorization has been approved by the House and Senate and is awaiting conference to reconcile differences between the two measures. Conclusion of the negotiations on the Trans-Pacific Partnership (TPP) free trade agreement has put additional pressure on concluding the Customs bill, with many on Capitol Hill unwilling to move to reviewing TPP until Customs is concluded.

The Elementary and Secondary Education Act (ESEA) Reauthorization has been approved by both the House and Senate, conferenced to reconcile differences between the two chambers, and a final vote is expected in early December.

The Cybersecurity Information Sharing Act (CISA) was approved by the Senate in late October, while the House has already passed two cybersecurity bills earlier this year. The various House and Senate committees are expected to spend the next couple months working and negotiating, at the staff level, to craft a compromise between the three bills. At this point, the conventional wisdom holds that we are less likely to see a formal conference committee, but instead a “ping pong” legislative process whereby one chamber will pass the compromise measure and send it over for passage.

Toxic Substances Control Act (TSCA) Reform legislation in the Senate has 60 cosponsors – a filibuster proof majority – and could be brought up for a vote at any time, while the House has already passed its reform bill 398-1 earlier this year. This would be the first update of the nation's primary chemical regulation in nearly 40 years.

If these bills are not concluded by year's end, they will roll over into 2016 when the process will be starting all over again for Fiscal Year 2017 appropriations, using the spending levels set by the Bipartisan Budget Act, and the annual defense authorization bill.

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