

September 21, 2017

## Today's Driving Events

**Don't Buy Healthcare Head Fake:** A spokesman for Senate Majority Leader Mitch McConnell (R-KY) made headlines yesterday afternoon by releasing a statement that read, "It is the Leader's *intention* to consider Graham-Cassidy on the floor next week." We believe that this is a factual statement -- McConnell "intends" to be able to call up the bill on the floor for a vote as early as next Wednesday, which would allow the partial score from the Congressional Budget Office (CBO) to be released on Monday evening and to be socialized among the GOP conference before doing a last whip count at the conference lunch on Tuesday. At that point, McConnell could call up Graham-Cassidy as an amendment to the House-passed healthcare reform bill and move directly to begin the lengthy vote-a-rama -- there is no time left for debate since it was already used up on the failed attempt to pass a bill in July -- and a final Senate vote would occur before Yom Kippur begins Friday at sunset. To be clear though, this is likely the "intended" schedule if -- and only if -- McConnell can gain the support of a sufficient number of Republicans, which would include at least one of Senators Susan Collins (R-ME), John McCain (R-AZ), and Lisa Murkowski (R-AK) who all remain noncommittal with their statements as of this morning and each voted against the prior effort to repeal and replace the Affordable Care Act (ACA) in July. **Our base case scenario remains that Collins and Murkowski vote No alongside Senator Rand Paul (R-KY), who believes the Graham-Cassidy bill maintains too much of the ACA's taxes and spending. These three members constitute a blocking minority if all Democrats also vote in opposition as expected.** Until we see signs from Murkowski or another one of these three that he or she is flipping, we continue to expect that there will be a headline by next Wednesday where McConnell either makes a statement on the Senate floor or at a press conference that they still do not have 50 votes and thus the bill will not be considered, thereby at least implicitly acknowledging that the ACA will remain law until at least 2019, when Republicans (if they keep both chambers of Congress) will once again be able to choose to tap the budget reconciliation mechanism to address healthcare.

**CFIUS Scrutiny Widens:** In the wake of President Trump's rejection last week of a Chinese firm's proposed acquisition of Lattice Semiconductor Corp. based on the recommendation of the Committee on Foreign Investment in the United States (CFIUS), the Treasury Department coincidentally released earlier this week without

any fanfare the unclassified version of its latest [Annual Report to Congress on CFIUS Transactions](#), which covers transactions from CY2015. Although this report was prepared entirely by the Treasury Department led by former Treasury Secretary Jack Lew under the Obama administration and the unclassified report just became available this week, it still provides some worthwhile insights into the widening scrutiny by CFIUS of transactions that previously were not traditionally a focus of national security concerns. **Besides a particular concern being raised about transactions in the semiconductor space, the report notes for the first time on page 24 that among the considerations now taken into account by CFIUS is whether the pending deal would result in "Foreign control of U.S. businesses that: . . . Hold substantial pools of potentially sensitive data about U.S. persons and businesses that have national security importance. Such businesses can be in any number of sectors, including, for example, the insurance sectors, health services, and technology services."** Given that CFIUS is expected to take a more aggressive approach to its national security reviews under the Trump administration than it did under the Obama administration, investors should not simply discount this report as not being relevant because it was authored under the Obama administration. For if CFIUS under the prior administration was planning to take transfer of control of significant amounts of sensitive data into account across a broad array of sectors, then it is all the more likely to raise a red flag under the current administration. **In terms of specific deals now under consideration, this adds to our conviction that Ant Financial's proposed acquisition of Moneygram International (MGI) faces significant regulatory risk of failing to gain CFIUS approval. Additionally, while we have been, and still remain, more sanguine about the pending purchase of Genworth Financial (GNW) by Oceanside Holdings, it is worth noting that the language cited above explicitly identifies the insurance sectors, so there appears to be at least a heightened level of scrutiny applicable to this transaction.**

**FERC Pipeline Decision Signals Pro-Business Mentality:** The Federal Energy Regulatory Commission (FERC) allowed Millennium's Valley Lateral Project to move forward when it overruled last week a decision by New York's Department of Environmental Conservation to deny the natural gas pipeline a water permit. In its decision, FERC explained that New York had failed to provide Millennium with a response on the permit within its one-year statutory deadline, and consequently no longer had the power to reject the pipeline. **This decision has been read by many as a demonstration that FERC is moving in a more conservative, pro-business direction. While it is true that FERC's action was pro-business, this action was not out of character for the commission even under the Obama administration.** [FERC rejected one pipeline under the previous administration](#), doing so only because the pipeline could not demonstrate that there was sufficient interest from customers in buying gas from the project. Additionally, the decision to overturn New York's rejection was signed onto by the only current Democratic commissioner, Cheryl LaFleur, who served under President Obama as well. This is not to say that FERC will not take more conservative action – Chairman Neil

Chatterjee said at yesterday's open meeting that FERC "will work diligently to see that what contributions we can make to aid the administration in achievement of their goals without ceding the agency's independence." **However, we are more likely to see the conservative actions come through policy changes made by the commission once all of its members are installed.** Former Commissioner Jon Wellinghoff, for example, led the promulgation of complex rules that allowed greater access to the grid for renewables and other non-traditional electricity sources. On the other hand, we expect the now Republican-led commission to focus on rules that will protect grid integrity through rulemakings that are more favorable to coal and nuclear power.

## Congress

The House and Senate are not in session. They will return on September 25th.

## White House

President Trump will continue his participation in the United Nations General Assembly by attending bilateral meetings with leaders from Afghanistan, Ukraine, South Korea, Japan, and Turkey. The president will also hold a working luncheon with Japanese Prime Minister Shinzo Abe and South Korean President Moon Jae-in, at which the rising tensions with North Korea will be the most pressing topic of discussion.

## Macroeconomic

At 8:00 a.m., Bloomberg Government will hold a discussion titled "Keeping Pace: Financial Inclusion in a Time of Innovation." Expected participants include:

- Rep. Gregory W. Meeks (D-NY)
- Rep. Emanuel Cleaver II (D-MO)

At 6:00 p.m., the Washington Association of Money Managers will hold a discussion titled "Evolution, not Revolution: What Retail Apocalypse?" The event will focus on how e-commerce is impacting the retail sector.

## Defense

Today and tomorrow, the Technology Training Corporation will hold a symposium titled "Big Data and Predictive Analytics for Intelligence and Defense." [More information here.](#)

## Tax

At 12:00 p.m., the Technology Policy Institute and the Progressive Policy Institute will hold a briefing titled "Tax Reform and Lessons from the United Kingdom." [More information here.](#)

## Tech-Media-Telecom

Today, Government Executive will continue its week-long Festival Week, focusing on "the new administration's agenda in management, workforce and IT innovation." [More information here.](#)

At 12:00 p.m., the National Economists Club will hold a discussion titled "The Digital Economy and the New Way to do Business."

At 4:00 p.m., the Atlantic Council will hold a discussion titled "Cyber Risk Thursday: Internet of Bodies." [More information here.](#)

## Trade

At 10:00 a.m., the Progressive Policy Institute and the Mexican Council on Foreign Relations will hold a discussion titled "The Future of NAFTA and the State of US-Mexico Relations." [More information here.](#)

