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WASHINGTON POLICY STRATEGY

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The Securities and Exchange Commission (SEC) has yet to signal whether it will extend a key no-action letter regarding the bundling of investment research and trade execution costs. The SEC's no-action letter expires on Monday, July 3. There is bipartisan support for extending the relief but a definitive answer from the SEC might not come until the very last minute.

We also take a look at the 2024 Republican presidential primary. In past primaries, early frontrunners have faded, but Donald Trump is not your typical candidate. At this early date, Trump is the clear favorite for the GOP nomination.

MIFID II DEADLINE

On Monday, a no-action letter from the SEC regarding the bundling of research and trade execution will expire. **A bipartisan effort in Congress has been made to push the SEC to extend its no action relief, but it is unclear whether the SEC will respond before the deadline.**

In 2014, the European Union enacted the Markets in Financial Instruments Directive (MiFID II) which prohibits brokerage firms from bundling the costs of research and trade execution they charge buy-side firms. Although the United States has not adopted MiFID II-type rules, some global buy-side firms have applied the European rule globally. In the U.S., this would force brokerage firms to register research analysts as "investment advisors," thereby subjecting them to additional regulation. In 2017, the SEC issued a no-action letter in which the Commission's staff wrote that the SEC would not recommend enforcement actions for the violation of Investment Advisors Act of 1940. In 2019, the SEC extended the no-action letter until Monday, July 3, 2023.

Recently, the House Financial Services Committee passed a bill to codify the no-action letter. There also seems to be bipartisan support in the Senate for extending the no-action relief. This could give the SEC some political cover to extend the no-action letter. Furthermore, EU officials have questioned the effectiveness of MiFID II, which could help push the SEC to extend the protection, but it remains unclear whether or not the SEC will act. Any extension of the SEC's no-action letter could be a last-minute announcement on Friday.

REPUBLICAN PRESIDENTIAL PRIMARY

Former President Donald Trump is the clear frontrunner for the 2024 Republican presidential nomination. In most election cycles, it would be too early to announce "game over," but this time might be different.

A large field helps Mr. Trump by dividing the non-Trump vote. Currently, there are approximately 12 Republican candidates. While it is possible that the field could grow further in the coming weeks, it is likely that it will then shrink later in the year. Poor poll numbers and weak fundraising will probably drive some candidates from the race. Although smaller than the 2016 field, the size of the 2024 field invariably helps Trump.

More importantly, Trump's lead could be more secure and enduring because 2024 could be different from a typical primary. In past cycles, early polling failed to hold up and leaders out of the gate faded. For example, Rudy Giuliani was an early frontrunner in 2008 and Scott Walker led the 2016 race during the early summer months of 2015. Neither candidate lasted long, **but Trump is a different type of candidate in many ways. He is the de facto incumbent, at least among Republicans, which has several**

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advantages. His name recognition is universal, which is quite different from Giuliani and Walker. Since he has run (and won) before, all of his flaws and attributes are well known. It is unrealistic to expect a surprising revelation which could derail his campaign. He can also dominate the media like no other candidate. The rest of the field will struggle to get press attention.

Theoretically, legal issues, especially related to the documents case, could hurt him. Maybe new revelations from that prosecution will cause Republican primary voters to reevaluate their support for Trump, but that seems unlikely as the Trump base sticks with him despite his flaws (or perhaps because of them?). Fear of losing another election to Democrats and President Joe Biden could move Republicans to support another candidate they see as more electable, but if the desire to win has not already moved GOP voters, is it realistic to expect them to change their minds now? Maybe if he participates in the debates and performs poorly, but that did not hurt Trump in 2016 even when his debate performances were roundly criticized. Trump's staying power with the base is strong and, at this point, he seems well positioned to win the nomination. **The prosecutions that Trump faces might pose legal risks to him, but they do not seem to pose a significant political risk. If anything, legal risks help Trump politically.**

Looking at the primary schedule, early states will matter. If Trump sweeps the Iowa Caucuses and the New Hampshire Primary, the race will be over. Another candidate will have to win at least one of those states in order to have a shot at the Republican nomination.

If Trump falters, the obvious beneficiary is Ron DeSantis, the only other candidate currently polling in double figures. If both Trump and DeSantis falter, and if no other candidate breaks out, it is hypothetically possible that Virginia Governor Glen Youngkin or Georgia Governor Brian Kemp could enter the race. That, however, seems more like fantasy than reality.

The 2024 election will be consequential for tax policy as several parts of the 2017 tax law expire (lower individual rates, the cap on the state and local tax deduction, the estate tax exemption). Corporate tax rates do not reset after 2025, but the future of business taxes could also be included in any 2025 tax debate.

Given the implications the election could have on tax policy, it is not too soon to at least keep an eye on the GOP primary. Even a year before the GOP convention, odds are significantly above 50/50 that Republicans will re-nominate Donald Trump. At this early juncture, a rematch of the 2020 election is looking increasingly likely.

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