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While the waiting game for a new House Speaker continues and drags down the legislative agenda, regulators continue to churn out key regulatory proposals. Banking regulators are likely to finalize Community Reinvestment Act (CRA) rules which could impact bank merger applications. Also, the Federal Reserve (Fed) is scheduled to vote on changes to its rule regulating debit card interchange fees. An announcement last week from the Consumer Financial Protection Bureau (CFPB) on "open banking" could signal that the agency is closer to releasing a final rule on credit card late fees.

Regarding China trade policy, the Biden administration is expected to announce new restrictions on the export of certain chips to China. That announcement might have been delayed given events in the Middle East.

Another week and still no Speaker of the House … House Republicans are scheduled to meet on Monday night to start the next round in their search for a new Speaker. However, nine House Republicans have reportedly indicated that they will run, thereby fracturing the field and probably dragging out the process for at least several more days. The inability to elect a new Speaker raises the chances of a government shutdown when the current Continuing Resolution expires on November 17. However, despite an increase in the odds of a shutdown, the probability remains low. Also, as we have previously written, government shutdowns tend not to be market moving events. Among the most significant consequences of not having a Speaker of the House is the inability of the House to move any legislation. This has crippled the prospects for a host of sector-specific legislation such as:

- Temporary changes to corporate tax laws including the business interest deduction, R&D expensing, and bonus depreciation rules;
- Cannabis banking legislation;
- Energy permitting reform; and
- Pharmacy benefit management legislation.

Despite the lack of legislative action, on the regulatory front things remain busy. Among the notable policy events this week are:

- **Community Reinvestment Act updates** – On Tuesday, banking regulators are scheduled to vote on changes to their Community Reinvestment Act rules. The initial proposal would decouple the link between CRA credits and physical branches and would, instead, evaluate where banks have concentrations of residential mortgages and small business loans. Perhaps, more importantly, CRA ratings are likely to become more granular and high CRA ratings could become scarcer. This could impact bank merger applications, especially if regulators proceed to update bank merger guidelines. The new ratings system could negatively impact merger applications submitted by acquiring banks if the new CRA rules lead to a lower CRA rating for the combined entity post acquisition.
- **Debit Interchange fees** – On Wednesday, the Federal Reserve Board is scheduled to vote on a proposal to revise debit interchange fees that can be charged by banks with over $10 billion in assets. The so-called Durbin amendment

requires the Fed to set debit interchange fees that are "reasonable and proportional to transaction-related costs incurred by the issuers." This gives the Fed discretion in setting debit interchange fees, and the Board is expected to lower the interchange fee. Currently, merchants pay large card issuers 21 cents plus 0.05% of the transaction amount. However, the $10 billion asset threshold is set by statute, and only Congress can change it, so the Fed will not alter the asset threshold. Similarly, the Durbin amendment applies only to debit cards, so this week's proposal will not directly impact credit card fees.

- **Open Banking Opens the Door to Late Fee Rule** – Last week, the CFPB proposed standards for "open banking" that would clarify consumer's right to their financial data and how that data can be shared with and used by third parties. We did not view the proposal as market moving. However, the issuance of the open banking proposal checks another box on the CFPB's "to do" list and probably means that a final rule on credit card late fees is drawing closer.
- **China Trade Policy** – Events in Israel have preoccupied the Biden administration and may have delayed the release of new restrictions on chip exports to China. We continue to believe that an announcement limiting exports of chips with artificial intelligence applications is imminent. An announcement on the status of the 2018 tariffs imposed by the Trump administration on Chinese exports is also likely to be issued within the next few months.

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