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WASHINGTON POLICY STRATEGY

Potomac Perspective

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Federal agencies recently released their updated semiannual agenda, which forecast dates for the issuing of new regulatory proposals as well as the finalization of outstanding proposals. It is impossible to cover all agencies, but a few items stood out. Agencies will be rushing to finish their agenda in the first half of 2024 in order to avoid the possibility of Republicans overturning rules in early 2025 if the GOP sweeps next year's elections.

Twice a year, federal agencies issue a regulatory agenda that provides an outline of the actions administrative agencies plan to issue in the near and long term. The agenda includes matters that the agencies might propose at some point in the future as well as forecasts for the finalization of previously issued proposals. The following are a few items of interest.

For each agency, we first list expectations for final rules (those which have already been released for public comment). A flurry of final rules is likely in the first half of 2024 as the Biden administration seeks to avoid possible Congressional Review Act (CRA) evaluation. The CRA establishes a possible congressional veto of administrative rules. Republicans, if they sweep the 2024 elections, could use CRA to block certain actions. CRA gives Congress 60-legislative days to block administrative actions. Since the CRA process is based on legislative rather than calendar days, there is no precise deadline, but we estimate that rules finalized before August 2024 should be able to avoid CRA review in early 2025. We also include some matters which agencies indicate they could propose in 2024. Because of the length of time it takes to move from the proposal stage to the public comment period, to finalizing a rule, it is unlikely proposals issued in 2024 will be finalized before the end of the current administration. They would likely be scrapped if the White House changes parties following the 2024 election, but they could be finalized in 2025 if Democrats retain the presidency.

Caveat: All the dates mentioned by the agencies are approximations and subject to change. Agencies can release regulatory proposals and final rules either before or after the forecast dates.

- **Securities and Exchange Commission (SEC):**
 - **Final rules:**
 - Climate disclosure (April 2024)
 - Special Purpose Acquisition Company rule (April 2024)
 - Safeguarding advisory client assets (April 2024)
 - Disclosures by investment companies and investment advisers about Environment, Social and Governance (ESG) investment practices (April 2024)
 - Open-end fund liquidity risk management and swing pricing (April 2024)
 - Regulation NMS minimum pricing increments, access fees and transparency of better priced orders ("Money market reform") (April 2024)
 - Regulation Best Execution (April 2024)
 - **Proposed rules:**
 - Human capital disclosure (April 2024)
 - Incentive-based compensation practices for financial institutions (April 2024)

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- Corporate board diversity disclosure (October 2024)
- **Department of Labor:**
 - ***Final rules:***
 - Fiduciary Rule – Public comment period ends January 2, 2024. No estimate given for a final rule.
- **Consumer Financial Protection Bureau:**
 - ***Final rules:***
 - Credit card late fees (December 2023)
 - ***Proposed rules:***
 - Overdraft fees (December 2023)
- **Banking Regulators:**
 - ***Final rules:***
 - Basel III Endgame (June 2024)
 - Long-term debt requirement (June 2024)
 - ***Notable absence:***
 - **Bank merger rules** – In numerous speeches over the past few years, banking regulators cited the need to update bank merger review rules. However, none of the federal bank regulators mention merger rules in their agenda updates. This suggests chances are low that the regulators will propose new bank merger review rules before the end of 2024.

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