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The BIOSECURE Act and China outbound investment legislation were both left out of the National Defense Authorization Act (NDAA). Congress has one more “must pass” bill this year – a Continuing Resolution (CR) to fund the government into March. Both bills that were left out of the NDAA could be included in a CR. Of the two, we think the China outbound vetting process bill stands a better chance of being included in the CR. Financial service-related bills which were not included in the NDAA face long odds of being included in the CR.

Congress could vote this week on the NDAA and next week it could pass a new Continuing Resolution (CR). The CR would extend government funding into March 2025. Negotiators on the NDAA dropped several provisions which could be included in the CR.

The NDAA was essentially stripped down so few, if any, provisions not directly related to defense policy were included in the bill. Items that were not part of the final NDAA bill include the BIOSECURE Act, which would prohibit the federal government from contracting with a group of Chinese companies, and China outbound investing rules. Although odds of these bills passing this year have diminished, there is still a risk that they could be included in the CR.

The BIOSECURE Act would prohibit the federal government from contracting with companies that do business with a “biotechnology company of concern.” The bill specifically mentions five companies (WuXi AppTec, WuXi Biologics, BGI Group, MGI Tech, and Complete Genomics). Congress could amend the bill to include criteria that would bar government contracting and support, which would capture these firms without specifically naming them.

China outbound investment legislation would expand on President Joe Biden’s Executive Order, establishing a vetting process for potential American investments in China related to hyper-sensitive technologies connected to national security. The debate in Congress has mostly been about whether to name specific companies or have a more flexible approach that would capture technologies.

A lot could change over the coming week as Congress tries to finish up the CR, and both bills could be included in the CR. We have slightly more confidence, however, that the China outbound investment vetting language will be included in the CR than we do that the BIOSECURE Act will make the cut.

Cryptocurrency legislation, the Credit Card Competition Act (i.e. Durbin 2.0), and cannabis banking legislation had also been part of NDAA negotiations. We thought all three bills were longshots for NDAA inclusion and none made the cut. In our view, the odds of any of these bills being included in the CR are quite low.

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