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WASHINGTON POLICY STRATEGY

Potomac Perspective

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A pair of key events are on the policy calendar this week. The U.S. Supreme Court heard oral arguments in an important case on the taxation of unrealized profits. A decision, which could impact future attempts to tax unrealized capital gains, could be issued in the first half of 2024. Also, big bank CEOs will testify before the Senate Banking Committee today. Headline risk to the banks is lower than usual, and the banks could be on offense regarding the Basel 3 Endgame proposal as well as the regulation of nonbanks.

WEALTH TAX CASE

On Tuesday, the U.S. Supreme Court heard oral arguments in a tax case that could have far-reaching ramifications for investors.

The plaintiffs in *Moore v. United States* were assessed a tax under the Jobs and Tax Credit Act of 2017. That legislation required corporations to pay a one-time tax on deferred foreign profits. The mandatory repatriation tax was part of a compromise that created a new tax regime on offshore profits. The plaintiffs in this case, however, did not repatriate their offshore profits and are claiming their profits are unrealized, thus the tax should be considered an unconstitutional “wealth tax.”

As Congress is seeking to raise revenues and various tax proposals being floated on Capitol Hill, this ruling could establish clearer limits on Congress’s ability to tax unrealized income such as deferred, but not repatriated, capital gains or potentially open the door to taxes on unrealized capital gains. The Court is likely to issue its ruling in the first half of 2024.

BANK CEO HEARING

The CEOs of the eight Global Systemically Important Banks (GSIBs) will testify before the Senate Banking Committee today. The group testifying tomorrow includes the CEOs of Bank of America, BNY Mellon, Citigroup, Goldman Sachs, JPMorgan, Morgan Stanley, State Street, and Wells Fargo.

The hearing has become an annual appearance by the CEOs. This year it is occurring without the backdrop of a major economic or banking crisis. The headline risk to the banks is relatively low. For example, Wells Fargo could continue to face questioning over its cross-selling programs and the banks could also be criticized for perceived low level of lending in minority communities. Citigroup could be a focus for these questions, given a recent settlement with regulators over discriminatory lending practices to Armenian-Americans. Bank of America might also face questions related to its recent settlement regarding mortgage data reporting. Some committee members will likely criticize the policy of “too big to fail” and could question the Federal Deposit Insurance Corporation’s resolution process by which some of the GSIBs are able to evade deposit concentration limits. Overdraft and late fees are always a popular weapon against bankers, so it is likely that they are mentioned during Q&A.

The absence of new crises in the banking sector might mean that the CEOs will be able to play more offense than defense. The bankers should be able to attack the Basel 3 Endgame proposal and will likely find some support of their criticisms of the proposal

on a bipartisan basis. At the same time, progressives on the committee will likely criticize the industry's media campaign against the proposal. The CEOs could also use the hearing to highlight potential financial stability risks within the nonbank sector.

Given the lack of major controversy surrounding the biggest banks (at least on a relative basis), we do not expect the hearing will be market moving.

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