

December 5, 2024

DC Quick Takes: Slater at DOJ Antitrust, Reconciliation Two-Step, Defense Spending Headline Risk and the GOP House

We give our quick takes below to: 1) Trump's nomination of Gail Slater to head the Department of Justice (DOJ) **antitrust** division; 2) the prospects of passing two reconciliation bills and what that might mean for extending the Trump **tax cuts**; 3) some headline risks for the **defense sector**; and 4) the narrow margin in the House and implications for GOP agenda.

Slater Top Antitrust Cop at the DOJ

While we believe Slater will continue the Biden administration's tough take on **big tech**, which arguably started during the first Trump administration, we otherwise see her as being more of an M&A/antitrust friend than her predecessor, Jonathan Kanter. We don't believe we are going back to the halcyon M&A days of President Bush (either one) or Reagan era, but we expect directionally more deals are very likely to be approved and the DOJ and FTC are likely to accept more remedies to effectuate closing deals. We suspect in general that her approach to antitrust enforcement will hew closely to past precedents.

We also think that under her leadership, the antitrust division, working with the FTC, is likely to reverse course from the Biden administration's Hart-Scott-Rodino changes, which would mean M&A parties would likely have an easier path in antitrust review, in the sense that they would not have to fork over the additional – and ancillary – data submission regarding proposed acquisitions. Additionally, we suspect the antitrust officials will pull the revised merger guidelines that pushed the envelope on anticompetitive theories of harm and evaluation of potential deals, like the bias against private equity firms, investor-owned parties, and real estate owners who want to buy a target OR the lens of serial acquisitions.

On the healthcare front, we do not see the sector as particularly vulnerable. She is not known as having specialized expertise in the space or targeting the sector for concerns about anticompetitive behaviors. We don't think she is likely to aggressively push for the reportedly ongoing monopolization investigation of **UNH**, though we don't necessarily expect it to quickly disappear, and we doubt that she will go to the mat for the **UNH-AMED** and likely seek to encourage a revised settlement. However, she may not be a fan of PBMs since we note that when she was an attorney advisor to FTC Commissioner Julie Brill (D) ten years ago, her boss held the dissenting view to the Express Scripts (now **CI**) acquisition of Medco.

Joe Lieber

202-964-7473

joe.lieber@capitolpolicypartners.com

Beth Steindecker

202-935-0946

beth.steindecker@capitolpolicypartners.com

Two reconciliation bills

Some Republican leaders have said they want to pass two reconciliation bills next year:

- One for providing additional **immigration/border funds**, more **defense** spending (though how much is unclear), and reportedly items to bolster domestic **energy** production, possibly by potentially getting rid of some of the **green energy tax provisions**, but which ones aren't clear (**permitting reform** is also reportedly being discussed but that likely won't be allowed in reconciliation); and
- One for extending the 2017 tax changes.

If the GOP proceeds with this schedule, it almost certainly means that the second one, the tax measure, won't be enacted until late Q3 at the earliest and more likely Q4. (This was the case in 2017, when Republicans first tried unsuccessfully to repeal and replace Obamacare, and then subsequently at year-end enacted the tax cuts package.)

The idea by some Republicans is to secure a quick win and allow Trump's deportation plans to take shape faster than would be the case if Congress only enacts a single reconciliation bill. Plenty of congressional Republicans believe doing two would be a mistake, since the first one would eat up time, which will be crunched given the likely outstanding government funding issue that will need to be dealt with and competing confirmation of Trump's Cabinet nominees.

This would then at a minimum delay the tax reconciliation bill or might make it more difficult to pass. Despite the near unanimity of support among GOP for extending the 2017 tax cuts, there will be different fights on other competing tax policies, which will warrant time for debate. Plus, we see Trump and congressional Republicans desiring to be able to claim they delivered on a promise by the end of the first year, like he did back in 2017, the first year of his first term.

While we think it's a close call on whether Congress opts for one or two reconciliation bills, plenty of congressional Republicans believe doing two would be a mistake, since it would at a minimum delay the tax reconciliation bill or might make it more difficult to pass. We think Congress is *unlikely* to pass two reconciliation bills, given the complexity and time-consuming nature, but the odds are close to 50/50. In our view, it will probably depend on President-elect Trump. If he pushes for two, Congress will likely follow.

Defense

It appears from reports that the National Defense Authorization Act (NDAA) topline number for defense spending will come in at \$895 billion, which will likely be seen as a disappointment to the **defense sector**. The number is in line with the Fiscal Responsibility Act's (FRA) levels. The decision isn't final, but it appears to be trending that way. However, we still see an additional \$25 billion that defense appropriators have been pushing as the ultimate level of spending when a final spending package is passed likely in Q1.

There is also the opportunity for Congress to pass two reconciliation bills (see above), which would bolster defense and likely bring the spending levels up by \$25 billion if that increase doesn't find its way into an appropriations measure.

GOP House Majority: 217-215, But...

With the final House race called this week, Republicans will hold a 217-215 majority after two GOP members, Rep. Elise Stefanik (R-NY) and Rep. Michael Waltz (R-FL) leave the House to join the administration and the retirement of Rep. Matt Gaetz (R-FL).

Stefanik will probably wait until she's confirmed as UN ambassador before she resigns, which could occur within a month or so after Trump is inaugurated on January 20.

Waltz can take his position as National Security Advisor on January 20 since his position doesn't require Senate confirmation. Finally, Rep. Matt Gaetz (R-FL) has stepped down from the current Congress and announced that he would not take his seat in the new Congress.

Absences are common in the House and Republicans will find it difficult to move legislation if only a few GOP members are away. Moreover, a couple of untimely GOP vacancies due to health concerns could sway control of the lower chamber, if only temporarily. However, for now, it's the Democrats who are likely to see members absent due to health issues.

Currently, two Democrats—Rep. Raul Grijalva (D-AZ) and Rep. David Scott (R-GA)— are dealing with health problems that have caused them to miss time in the chamber.

DISCLOSURES AND DISCLAIMERS

Analyst Certification

The analyst, Capitol Policy Partners, primarily responsible for the preparation of this research report attests to the following: (1) that the views and opinions rendered in this research report reflect his or her personal views about the subject companies or issuers; and (2) that no part of the research analyst's compensation was, is, or will be directly related to the specific recommendations or views in this research report.

Analyst Certifications and Independence of Research.

Each of the Capitol Policy Partners analysts whose names appear on the front page of this report hereby certify that all the views expressed in this Report accurately reflect our personal views about any and all of the subject securities or issuers and that no part of our compensation was, is, or will be, directly or indirectly, related to the specific recommendations or views of in this Report. Capitol Policy Partners (the "Company") is an independent equity research provider. The Company is not a member of the FINRA or the SIPC and is not a registered broker dealer or investment adviser. Capitol Policy Partners has no other regulated or unregulated business activities which conflict with its provision of independent research.

Limitation Of Research And Information.

This Report has been prepared for distribution to only qualified institutional or professional clients of Capitol Policy Partners. The contents of this Report represent the views, opinions, and analyses of its authors. The information contained herein does not constitute financial, legal, tax or any other advice. All third-party data presented herein were obtained from publicly available sources which are believed to be reliable; however, the Company makes no warranty, express or implied, concerning the accuracy or completeness of such information. In no event shall the Company be responsible or liable for the correctness of, or update to, any such material or for any damage or lost opportunities resulting from use of this data. Nothing contained in this Report or any distribution by the Company should be construed as any offer to sell, or any solicitation of an offer to buy, any security or investment. Any research or other material received should not be construed as individualized investment advice. Investment decisions should be made as part of an overall portfolio strategy and you should consult with a professional financial advisor, legal and tax advisor prior to making any investment decision. Capitol Policy Partners shall not be liable for any direct or indirect, incidental or consequential loss or damage (including loss of profits, revenue or goodwill) arising from any investment decisions based on information or research obtained from Capitol Policy Partners.

Reproduction And Distribution Strictly Prohibited.

No user of this Report may reproduce, modify, copy, distribute, sell, resell, transmit, transfer, license, assign or publish the Report itself or any information contained therein. Notwithstanding the foregoing, clients with access to working models are permitted to alter or modify the information contained therein, provided that it is solely for such client's own use. This Report is not intended to be available or distributed for any purpose that would be deemed unlawful or otherwise prohibited by any local, state, national or international laws or regulations or would otherwise subject the Company to registration or regulation of any kind within such jurisdiction.

Copyrights, Trademarks, Intellectual Property.

Capitol Policy Partners, and any logos or marks included in this Report are proprietary materials. The use of such terms and logos and marks without the express written consent of Capitol Policy Partners is strictly prohibited. The copyright in the pages or in the screens of the Report, and in the information and material therein, is proprietary material owned by Capitol Policy Partners unless otherwise indicated. The unauthorized use of any material on this Report may violate numerous statutes, regulations and laws, including, but not limited to, copyright, trademark, trade secret or patent laws.