



January Through April, 2012 - Should Be  
Interesting\*  
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January, 2012

Congress, the U.S. Supreme Court and the regulators will be busy in the first four months of 2012. Some major issues will be teed up, and some will be decided. It is not clear whether Congress will be able to decide major issues, however, during what will probably turn out to be a contentious political year.

The Senate and the House have not coordinated their schedules so that both are in or out at the same time regularly, although such coordination does not greatly impact what Congress as a whole can accomplish. Speaking generally, the House has adopted a two week on, one week off schedule and the Senate has chosen a four week on, one week off schedule.

Federal regulators will continue to churn out regulations implementing the Dodd-Frank Act (DFA). The most recent example of that is the publication of the proposals under sections 165 and 166 of DFA, the 173 page proposal on enhanced prudential standards and early remediation requirements for companies covered under the Act.

The Supreme Court will deal not only with high profile cases such as that involving the health care and immigration laws, but will deal with two RESPA cases (in one Court year!) and a disparate impact case involving the Fair Housing Law.

All of this will be against a backdrop of Republican presidential primaries, and primaries covering both parties in which every member of the House running for reelection will have to participate. Of the senators, roughly a third of the seats are up for election, and at last count, 9 senators have said they would not run for reelection. For those running, focusing on

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committee work and other congressional duties while opponents are out in the district attending campaign meetings is difficult.

Here's how the first few months shape up:

### **January**

- Pro forma sessions will continue
- January 3 — Iowa caucus for selection of Republican delegates to national presidential nominating convention
- *January 9 — Supreme Court argument in Perry v. Perez, Texas re-districting case*
- January 10 — New Hampshire primary
- January 17 — House convenes, in session for 6 days in January (17, 18, 23, 24, 25 and 31)
- January 21 — South Carolina primary
- January 23 — Senate convenes, remains in session for four weeks
- January 31 — Florida primary

### **February**

- House in session 1 — 17, with no votes on Friday the 10th or Monday the 13th
- February 4 — Nevada caucus
- February 4 through 11 — Maine caucus
- February 7 — Colorado and Minnesota caucuses and Missouri primary

**At this point, 11% of the delegates to the Republican convention will have been chosen**

- February 20 — 24 Senate and House both out
- *February 21 — Argument in Freeman v. Quicken Loans (RESPA case)*

- February 27 through end of February — Both houses in
- February 28 — Arizona and Michigan primaries
- *February 29 — Supreme Court argument in *Magner v. Gallagher* (disparate impact case under Fair Housing Law)*
- ***Payroll tax deduction extension, etc., terminates***

### March

- March 1 through March 8 — Both houses in (no votes on Friday the 2d or any other Friday in March in House; no votes on Monday the 5th, 12th, or 19th in Senate)
- March 3 — Washington caucus
- March 12 through 16 — Senate in
- March 6 (Super Tuesday) — Alaska, Idaho, and North Dakota caucuses and Georgia, Massachusetts, Ohio, Oklahoma, Tennessee, Vermont and Virginia primaries

### **35% of the delegates will have been chosen by this date**

- March 6 through 10 — Wyoming caucus
- March 10 — Kansas and Virgin Island caucuses
- March 13 — Hawaii caucus and Alabama and Mississippi primaries
- March 17 — Missouri caucus (the earlier primary will not elect delegate)
- March 19 through 30 — Both houses in
- March 20 — Illinois primary
- March 24 — Louisiana primary
- *March 28 — Supreme Court argument in *Florida et al. v. HHS* (states challenging health care law)*

### April

- April 1 through April 13 — Both houses out
- April 3 — DC, Maryland, Wisconsin and Texas primaries
- April 16 through 27 — Both houses in (House out Friday the 20th and Monday the 23d)
- April 24 — Connecticut, Delaware, New York, Pennsylvania and Rhode Island primaries

**71% of the delegates will have been chosen as of this date**

In addition to this calendar of activities, there will be regulations finalized during these first four months by a variety of agencies, and others published for comment. While dates cannot be predicted with certainty, various agencies have already taken steps on promulgating regulations that may well be in this list.

For example, the industry is waiting to see what the next steps might be with respect to rules relating to risk retention in securitizations and those governing the ability to repay standards, including what the definition for Qualified Mortgage might be and what protection compliance with that definition might give to those in the industry. Will there, in fact, be harmonization between RESPA and TILA and if so, will that be in a form that consumers can understand easily while still protecting those who, with good intentions, attempt to comply with the forms? Will mortgage servicing rules be made uniform and be workable under the new capital standards? Will CFPB truly streamline the various regulations under its jurisdiction, and will that begin promptly in the new year? Finally, while not strictly regulatory action, the industry is awaiting a determination on the settlement of the robo signing allegations that have been the subject of discussions for more than a year between a number of state and federal agencies and certain members of the industry.

Other agencies are at work, witness the very recent proposal for rules under sections 165 and 166 of the DFA. CFTC has listed a variety of possible first quarter rulemakings including capital and margin, risk management, disruptive trading practices, conflict of interest, investment of customer funds, swap execution facilities, segregation for uncleared swaps and straight through trade processing. The banking agencies continue to plow

through their assignments under the DFA as well as other duties assigned by Congress through passage of new legislation.

All of this should combine to make the first four months of 2012 very interesting.

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