Client Note: A "Bizarre" Credit Downgrade

Historic economic news dropped on Wednesday when Fitch Ratings downgraded U.S. government debt to AA+ from AAA, but it's yet to be seen whether that news will amount to more than a bump in the road for an economy that appears to be chugging steadily along.

The Administration pushed back hard on the timing and reasoning of Fitch's announcement and a slew of economists – even those hawkish on America's debt, like Larry Summers and Jason Furman – joined in, calling the decision "bizarre" and "absurd," respectively. For Fitch's part, the credit ratings agency cited growing fiscal concerns, erosion of governance, and increased political polarization as its basis for reducing the nation's credit worthiness. Importantly, Fitch noted the January 6 insurrection as a reflection of growing partisan divides and the debt-ceiling showdown in June as a symptom of the nation's inability to address its fiscal responsibilities and mounting long-term debt. The Administration made sure to put the blame on Republicans and former President Trump for each of these problems.

It's unclear what this development means in the short- or long-run. The economy continues to hum along, with another solid jobs report posted today (187,000 jobs added; 3.5 percent unemployment) and no recession on the horizon. The only other credit downgrade in the nation's history came from S&P in 2011, which also cited government instability. But since then, America's position as the financier of global economic activity remained solid – 10-year Treasury yields remained at or below 2 percent throughout the 2010s and have only reached above 4 percent (still a historically low level) in the aftermath of the COVID-19 crisis and recent inflation, which is moderating. The bottom line is that America's debt is still the safest asset in the world for investors seeking a secure place to put their money.

This Week in Washington

The Fitch credit downgrade news on Wednesday was nearly buried in the headlines by former President Trump's third criminal indictment. Department of Justice special counsel Jack Smith indicted Trump on four charges related to his attempt to overturn the 2020 election, culminating in the January 6th attack on the U.S. Capitol (which, as mentioned above, Fitch cited as a sign of deterioration in governance in their reasoning for downgrading U.S. debt). After being arraigned yesterday in D.C., the former President pleaded not guilty, and the next hearing is set for August 28th. This follows Trump's other indictments in New York (for falsifying business records related to his hush money payments to Stormy Daniels) and Florida (for retaining classified documents).

Like the other indictments, these are historic charges for a former president to face. The charges brought this week are even broader, more fundamental, and tied to more recognizable events than the rest. The case focuses on Trump's months-long attempt to subvert the core of U.S. democracy – legitimate elections and the peaceful transition of power – including with a violent coup attempt. And, almost all Americans have in some way followed the events of January 6 - whether they watched the events play out that day, or were among the nearly [40% of voters] who watched the House of Representatives' investigative hearings on the matter last year.

All of this, and another indictment is expected in Georgia related to Trump's demand to "find" votes and use fake electors.

It's anyone's guess how these cases will turn out, and the political impact is hard to predict. Before the most recent indictment was announced, polling had President Biden and Trump [tied at 43 percent] (even after the first two indictments had been announced). The first two indictments seem to have improved Trump's standing among Republican primary voters, and there's some [polling] that suggests Republican voters have already made up their minds about Trump's responsibility for January 6th.

Either way, the only thing we can easily predict is that throughout the presidential campaign and for the rest of this Congress, every politician will have some focus on (and be asked by reporters to take a position on) the day-to-day drama and revelations of the indictments and trials. This focus will take up oxygen that could be devoted to other priorities (like government appropriations, the Farm Bill and other key issues) and will exacerbate polarization that makes governing harder – yet another knock-on effect of Trump's anti-democratic efforts.

NDAA Likely to Prohibit ESG Requirement for DoD Contractors
In November, the Administration issued a [proposed rule] that would revise the Federal Acquisition Regulations to require a substantial portion of government contractors (those receiving more than $7.5 million in federal contract obligations in the prior fiscal year) to publicly disclose greenhouse-gas (GHG) emissions and climate-related financial risk and also set science-based reduction targets.

A final rule hasn't been issued yet, but at least a meaningful portion may be in jeopardy based on language contained in versions of the FY2024 National Defense Authorization Act recently passed by the House and Senate. The House-passed bill (H.R. 2670) contained a provision that (1) would prohibit DoD from using funds to establish an ESG advisory committee (Sec. 1046) and (2) effectively prohibit DoD from requiring contractors to disclose GHG emissions or establish reduction targets in conjunction with submitting contract bids (Sec. 1822). The more recently passed Senate-version of the NDAA (S. 2226) didn't contain an analogous provision seeking to block an ESG advisory committee but it did include language that would prohibit requiring "nontraditional" contractors to report GHG emissions, and, for at least for two years, would impose the same prohibition against disclosure requirements for other than nontraditional contractors (Sec. 820).

Given the commonality between the House and Senate provisions on prohibiting DoD from requiring contractors to disclose GHG emissions, it's likely a version of the two provisions will survive a conference process (or an informal reconciliation of the bills if there's no conference) and be signed into law. Whether this language portends the success of other anti-ESG prohibitions in other bills, such as the appropriations process, remains to be seen.

DOE Funding Opportunity Announcements (FOA)

Although there were no funding opportunities announced this week, please see here for open FOAs in the renewable energy space.

Clients in the News

The American National Standards Institute approved the Solar Energy Industries Association to develop and implement eleven new standards governing solar generation and battery storage.

NextEra Energy has partnered with Steel Dynamics to build and supply the steel company with a wind plant which will account for around 16% of their power once operational, making it the largest wind agreement in the North American steel industry thus far.

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