

Window on Washington: Home for the Holidays

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Thanks to King Corona, most of us were probably home for the holidays as 2020 drew to a close. In some ways, it has been nice spending more time with the family in 2020, “under the Yellow Jack” as we published in April 2020. The holidays are different for regulatory and legislative lawyers in D.C., and not just because of the pandemic. Many transactional lawyers know well that the Thanksgiving-Christmas-New Year’s holiday slalom can be like obstacles on the bumper course to multiple end-of-the year deal close targets. While the regulatory bar often gets to be a part of those transactions, the Federal Government is also prone to exhibit a flurry of activity during the closing days of the year, even more so when the Congress is ending and there is a transition of power at the other end of Pennsylvania Avenue to boot. Agencies have been known to tuck unpopular or controversial notices and proposals into Federal Register publication dates like the day after Thanksgiving, or somewhere along that lonely stretch of highway between Christmas Day and New Year’s Day. It is not unheard of for agency leadership on the way out to do favors for new friends or act against old foes. Sometimes, as political appointees depart for new pastures in the closing days of an administration, the career bureaucrats are given the rare opportunity to fix things.

During the final days of 2020, a grand showdown among the Democrat-controlled House, the Republican controlled Senate, and President Trump culminated in the passage of several significant pieces of legislation. For one, the 116th Congress passed the National Defense Authorization Act for Fiscal Year 2021 by voting the first override of a Trump veto on New Year’s Day and locking in a sixty-year streak for passage of the nation’s key defense bill, the maritime provisions of which we reviewed in the 2020 Fourth Quarter *Window on Washington*. In his veto statement, the President called the Act “a ‘gift’ to Russia and China,” and proclaimed “[n]o one has worked harder, or approved more money for the military, than I have—over \$2 trillion. During my 4 years, with the support of many others, we have almost entirely rebuilt the United States military, which was totally depleted when I took office.”

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