



# FAST FIVE

## Public Policy Insights

### North America

### November 6, 2020

#### Featured Five

1. **Likely Biden Victory Brings Opportunities and Challenges.** Although public polls missed the mark in some key states, the resurgence of Vice President Biden in the Midwest made the difference, as he is likely to capture both the popular vote (by a wide margin) and the Electoral College vote. However, the Trump campaign has pledged court challenges over the results in key states. There are still millions of votes to count, but it's clear Biden will immediately begin reversing course on Trump's regulatory actions, including executive orders on immigration H1-B's, DOL anti-racism training ban, and many others. Our risks, already raised, increase considerably if regulations are snuck into a "must pass" bill that Biden is inclined to sign. However, Biden has indicated passing a significant COVID relief package is his main priority, which will bring a range of opportunities and risks for Mastercard and our customers.
2. **Peach State to Decide Fate of U.S. Senate.** Although President Trump is likely to lose his bid for reelection, Republicans held their own in the House and Senate. As of this writing, they appear poised to pick up roughly 10 House seats, despite many experts predicting as many as 15 Democratic gains. In the critically important Senate, Democrats picked up seats in both Arizona (Mark Kelly) and Colorado (John Hickenlooper). However, Tommy Tuberville is the new Republican Senator from Alabama, netting Republicans a seat. As of now, Democrats have netted just one seat and they need at least two more for a 50-50 tie, which Kamala Harris is likely to break for Democrats. Georgia has two seats that could go either way, with Senator David Perdue (R-GA) heading to a runoff in January. It's likely those Georgia seats will decide control of the Senate.
3. **State Election Results Largely a Mixed Bag on Policy Front.** California led the way with notable policy changes by expanding its consumer data privacy law. The new privacy measure is expected to set the *de facto* national standard unless Congress acts and preempts the California law. Industry pressure for Congress to act will be stronger than ever. In addition, California voters handed Uber and Lyft a victory by striking down an existing law that would have made their drivers employees. This will have implications for portable benefits across the U.S. In Missouri, incumbent Mike Parson (R-MO) was elected with roughly 57% of the vote. Finally, voters largely approved of cannabis legalization in Arizona, Mississippi, New Jersey, and South Dakota. Surprisingly, few state legislative chambers switched parties this year, with New Hampshire the only state that changed party control; the races in Alaska, Arizona, and Minnesota are still too close to call.
4. **GOP Senators Introduce Antitrust Reform Proposal.** Senators Mike Lee (R-UT), Thom Tillis (R-NC), and Chuck Grassley (R-IA) introduced the Standard Merger and Acquisition Reviews Through Equal Rules Act, or "SMARTER Act" (S. 4876). The bill would require both the Federal Trade Commission (FTC) and Justice Department to challenge acquisitions in federal court using

the same legal standard. The bill is not so much a fundamental rewrite of antitrust law as much as it is a bid to unify the procedures of FTC and the Justice Department in antitrust enforcement. Although the two antitrust agencies apply the same substantive law to the mergers they review, their procedures differ. The SMARTER Act aims to fix this problem by requiring FTC to satisfy the same standards that Justice must meet to obtain a preliminary injunction to block a merger. It also requires FTC to litigate the merits of contested merger cases in federal court under the Clayton Act—just as Justice does—rather than before its own administrative tribunals.

## **Future Five**

1. **Senator Warren Makes Case for Treasury Secretary.** The rumors are rampant in D.C. that Senator Elizabeth Warren (D-MA) is making her case for Treasury Secretary. This is based on interviews with three Democratic policymakers. Any potential appointment could rally progressives in the Democratic party but garner opposition from Wall Street and some moderate Democrats. A fourth Democratic source, who spoke with former Warren staffers, said that Warren would want to stay in the Senate and aim for a seat on the Senate Finance Committee if she doesn't get the Treasury job. Regardless, a Warren appointment would likely set off a firestorm in the financial services community, but any opposition would be an uphill battle.
2. **“Squad” Introduces Bill to Create Public Option for Banking.** Congresswomen Rashida Tlaib (D-MI) and Alexandria Ocasio-Cortez (D-NY) have proposed a bill (H.R. 8721) that could create a public option for banking across the country, providing an infrastructure for liquidity and credit via the Fed. It would also establish regulatory guidelines for national banks. While passing the bill in the current Congress simply won't happen, the legislation could signal what some Democrats' priorities could be in 2021. If there is a concerted push to advance the bill in the House, expect a ferocious fight by the banking industry to kill the legislation.
3. **UK Set to Lead G7 Presidency in 2021.** The UK will assume presidency of the G7 in 2021; its policy priorities will likely focus on COVID-19, sustainable finance, potential non-bank intermediation reform items, and financial innovation (including digital finance and data flows). The UK is open to continuing the G7 working groups on digital payments. The U.S. Treasury has acknowledged that there is no designated platform for global conversations around data flows, which is why the U.S. set up the G7 technical working group under its presidency. Treasury hopes the UK will take the data flows issue forward in its G7 presidency. We'll continue to follow these issues closely as the UK take the helm of the G7.
4. **Cyber Solarium Commission Calls for Enhanced Election Security.** The co-chairs of the Cyber Solarium Commission, Senators Angus King (D-ME) and Congressman Mike Gallagher (R-WI), released a statement calling for enhanced election security following the hack on the Republican Party of Wisconsin. The hackers allegedly stole more than \$2 million from the party's accounts. The Democratic Party of Wisconsin has likewise been targeted by hackers more than 800 times. Both King and Gallagher urged Congress to come together and pass the bipartisan recommendations provided by the Cyberspace Solarium Commission report that will strengthen critical infrastructure by improving public-private collaboration and the resilience of the nation's electoral system—specifically the funding of the Election Assistance Commission.
5. **U.S.-UK Trade Deal Talks Continue Despite Election.** The U.S. and UK continue to seek solutions to digital finance and cross-border data flow issues during trade negotiations. Both sides have discussed ways to advance shared objectives around data flows bilaterally (such as the U.S.-

Singapore announcement in February) and multilaterally (as the U.S has raised in the Financial Stability Board). Data and digital finance issues are also covered in the U.S.-UK Financial Innovation Partnership, which held its last meeting in August. Treasury is lobbying its British counterparts to champion digital trade and data flows, not only in the pending trade deal, but also at the G7. A final deal between the two countries will be a major priority of the Trump Administration, but it remains unlikely in the next 60 days. It is unknown how a likely Biden win will affect the status of a U.S-UK trade deal.