



The House Considers Impeachment: Where Do We Go From Here?

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Since the beginning of 2019, we have said that actions in Washington are likely to bring volatility to the markets. This prediction has proven correct, as Washington developments – particularly the president’s tariff initiative and treaty negotiations – have caused the markets to whipsaw.

We believe this volatility is likely to continue. A new potential contributor is the recently announced House inquiry into whether there are grounds to bring articles of impeachment against President Trump.

This white paper considers the different paths the inquiry may take and how the markets might react to the various scenarios.

1. Alleged facts

The House inquiry arises from a whistleblower complaint alleging that President Trump asked the president of Ukraine, Volodymyr Zelensky, to investigate possible illegal actions by Hunter Biden, Joe Biden’s son. In exchange for Ukrainian help, Trump allegedly offered a *quid pro quo*, agreeing to take official United States actions in favor of Zelensky and Ukraine. After news sources reported that a whistleblower had filed a complaint relating to the call, Trump released a non-verbatim transcript of his conversation with Zelensky.

2. Substantive case

A majority vote in the House of Representatives is required to impeach a president. Impeachment is akin to a criminal indictment, asserting that there is sufficient evidence to conduct a full trial on the merits. That trial is conducted in the Senate. The Chief Justice presides and the Senators act as the jury. A 2/3 majority of Senators is required for conviction and removal of the president from office.

Because the Democrats now hold a majority of the House, they can impeach President Trump without Republican support if they vote along party lines. On the other hand, the Republicans hold a majority of the Senate, so there would be insufficient votes for conviction if Senators vote along party lines.

Two facts appear clear:

- The whistleblower bases his or her allegations on information told to him by administration personnel. The whistleblower was not present when the alleged behavior occurred.
- Some readers have concluded that the transcript of the call between President Trump and Ukraine President Zelensky definitively supports the allegation of a *quid pro quo*. Other readers have found the transcript ambiguous and insufficient to support such a conclusion. (Whether the call transcript is ambiguous or conclusive is a fraught question on which we express no opinion. We note only the fact that different readers have reached different conclusions.)

It is not a foregone conclusion that the House will view this evidence as sufficient to pass articles of impeachment. Given the political nature of the impeachment inquiry, it is difficult to predict with certainty the outcome in that chamber.

The pertinent question, however, is whether the evidence is sufficient to meet the much higher standard of conviction in the Senate. Given the Republican majority there, the evidence will have to be virtually incontrovertible to garner the required 2/3 vote.

Based on the evidence publicly disclosed to date, the likelihood of conviction in the Senate appears remote. The whistleblower bases the complaint on hearsay, that is, on information related to him by third parties. Hearsay evidence typically is not sufficient to support a criminal conviction. Further, because readers of the call transcript have reached differing conclusions regarding the presence of a *quid pro quo*, the transcript alone presumably is not sufficiently unambiguous to compel 2/3 of the Senators to convict.

Additional evidence could emerge, of course. The House inquiry might yield a witness who observed the alleged behavior and who is willing (or compelled) to testify. That witness could identify superiors who were also involved. Those superiors could testify about *their* superiors, and so on up the chain. (The Congressional committees investigating President Nixon followed this roadmap.) Depending on how they view the trustworthiness of the witnesses, some skeptical Senators might change their vote. At this point, it is far too early to speculate whether the alleged actions occurred, whether such testimony exists, and whether witnesses will be viewed as trustworthy.

3. *Consequences of the House inquiry*

Based on the evidence publically disclosed to date, the markets are likely to regard the impeachment inquiry, or a subsequent vote to impeach, as a political event not worthy of substantive attention. But the markets might react negatively if the inquiry yields new facts or witnesses that could place the Senate vote in doubt. The markets do not welcome Washington dysfunction, and they do not want to see Trump's implementation of his economic plan impeded.

Perhaps more important than impeachment itself is whether the substantial time the House will devote to the inquiry will crowd out its consideration of other legislation. Of immediate concern, Congress must allocate appropriated funds among federal agencies by November 21 to avoid a government shutdown.

Time spent on the inquiry also could slow House advancement of a bill to replace NAFTA with the newly negotiated USMCA treaty. The markets are eager to see the new treaty ratified, and will be unhappy if the House fails to act. House action on the USMCA is now likely to travel a bumpy road, perhaps lending further volatility to the markets.

4. *Conclusion*

Based on the evidence publically disclosed to date, the House inquiry into a possible impeachment of President Trump -- or impeachment itself -- is unlikely to bring additional volatility to the markets. But the revelation of new facts or witnesses that puts the result of a Senate trial in doubt might bring greater volatility. That volatility likely would continue throughout the Senate trial, as markets react to which party is ascendant after each day's testimony.

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