



May 2023

## Dealing With the Debt Ceiling, Redux

Janet Yellen suggested that the US could default as soon as June 1st, 2023, if Congress does not raise the debt ceiling by that date. The debt ceiling sets the limit on how much money the US Government may borrow. If Congress does not increase the debt ceiling, the US, unable to borrow, cannot pay interest on the national debt and risks going into default.

We remain confident that a deal will be worked out and default avoided. However, several unique variables lessen our confidence in making that statement vs. 2011.

- A lack of urgency to begin the negotiations
- The players themselves in the negotiations vs. those in 2011
- The number of Republicans voicing doubts regarding the seriousness of a default on the US and world economies

Some commentators are urging the Biden Administration to bypass Congress by invoking Section 4 of the 14th Amendment, which states, “The validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned.”

If Biden does invoke the 14th Amendment, Republicans will assert that the President has violated the separation of powers, placing the issue at the feet of the judicial branch. A court then will decide whether the public debt is “authorized by law” given Congress’s failure to raise the debt ceiling, a question that it cannot resolve before the June 1st deadline.

Given this uncertainty, invocation of the 14th Amendment is unlikely to satisfy the world markets, leading to the meltdown that an increase in the debt ceiling is trying to avoid. Investors are unlikely to purchase Treasuries at the same interest rate knowing that the Supreme Court might overturn the payment of interest. The bottom line, invoking the 14th Amendment solves little.

Various groups continue discussing multiple other workarounds, each with less likelihood of success vs. invoking the 14th Amendment.

Kevin McCarthy must balance an issue of his own. He risks a challenge to his speakership if he negotiates away some of the GOP-passed measures in their budget bill. The Democrats do not have equivalent power over President Biden, giving the President some political cover.

Due to the upcoming June deadline, we presumably will see progress in negotiations to a degree that warrants more time to work out the details of a new deal. A bipartisan suspension of the debt ceiling seems possible, perhaps to the 4th of July recess or to September 30th to coincide with the end of the fiscal year.

Investors are wise to watch the progress of these talks with a healthy appreciation for the risks involved in these high-stakes negotiations. We have confidence that our elected officials will reach an agreement that includes a debt ceiling increase with more modest expense savings compared to the GOP House-passed proposal.

Given the likelihood of significant market reaction, both positive and negative, to each news bite regarding the negotiations, investors should hold off deploying any cash meant for equities until the deal's completion, taking the time to assess the economic impact of the agreement itself and the process by which the players reached it. Investors should appreciate the higher level of risk associated with any treasuries issued under the invocation of the 14th Amendment. While we anticipate yields will reflect the additional risk, being subject to the review of the judicial branch is unprecedented.

---

Jeff gives audiences his perspective on these and other issues via in-person and virtual presentations. His fall availability fills quickly. If you want Jeff to present to your group, please click the "Book Now" button on our website, [www.TheWashingtonUpdate.com](http://www.TheWashingtonUpdate.com).

Jeff posts short videos weekly, generally on Mondays, to give our followers a deeper understanding of current issues and posts a selection of reading daily for your consideration. You may view both on our various social media offerings; find our links below.

[Twitter](#)

[Facebook](#)

[LinkedIn](#)

*Jeff Bush, Partner, The Washington Update, speaks regularly on legislative and regulatory developments and trends affecting investment, insurance, and retirement products. He may be reached at [www.TheWashingtonUpdate.com](http://www.TheWashingtonUpdate.com).*

*The author of this paper is not providing legal or tax advice as to the matters discussed herein. The discussion herein is general in nature and is provided for informational purposes only. There is no guarantee as to its accuracy or completeness. It is not intended as legal or tax advice, and individuals may not rely upon it (including for purposes of avoiding tax penalties imposed by the IRS or state and local tax authorities). Individuals should consult their own legal and tax counsel as to matters discussed herein and before entering into any estate planning, trust, investment, retirement, or insurance arrangement.*

*Copyright Andrew H. Friedman 2021. Reprinted by permission. All rights reserved.*