

**The Super Committee Failure: Now What?  
Outlook for Remainder of Congressional Session and Next Year**

**Executive Summary**

- The Super Committee's failure will result in \$1.2 trillion in spending reductions over the next decade, split evenly between Security and Non-Security items.
- We expect intense efforts to modify or reprogram where those cuts impact by defenders of existing agencies and programs.
- While Congress has many pending items that could impact spending or taxes, few are highly likely to pass in the next three months.
- Debates over tax and spending will persist and intensify as we head towards the 2012 elections.

**Introduction**

After three months of meetings and two days before the November 23 legislative deadline, the co-Chairs of the Joint Select Committee on Deficit Reduction, Senator Patty Murray (D-WA) and Representative Jeb Hensarling (R-TX), announced that the so-called Super Committee could not agree on a deficit reduction package. The announcement set into motion the Budget Control Act of 2011 (BCA) process for across the board spending cuts or "sequester" to achieve \$1.2 trillion in debt reduction. Because the sequestration cuts do not take effect until 2013, there already is discussion about how lawmakers may undo or redo the details of sequestration with the goal of softening the blow to the nation's defense programs. The Super Committee's failure also has led to intense speculation about how Congress will approach other pressing legislative matters in the waning weeks of the 112<sup>th</sup> Congress' first session and into next year.

This memorandum provides a brief overview of the Super Committee process, including the offers made by both sides and what led to the impasse. It also summarizes the sequestration process and options to mitigate its effect, as well as other possible next steps with respect to deficit reduction. Finally, after multiple conversations with key House and Senate Leadership and Committee staff, Mehlman Vogel Castagnetti's (MVC) team has identified legislative priorities that "must happen" and others that are "likely to happen" before the end of the first session of the 112<sup>th</sup> Congress this year. We also take a preliminary look at major Congressional agenda items for 2012.

We also have attached seven PowerPoint slides that provide a little more detail on how sequestration works and what legislative priorities are likely to be considered by Congress for the remainder of 2011 and 2012.

## **The Super Committee: An Unprecedented and Arduous Task Fraught with Opportunity for Impasse**

The BCA allowed for an immediate \$400 billion increase in the nation's debt ceiling followed by an additional \$500 billion increase in September. The law further specified that any further debt ceiling increase must be offset by savings adopted by Congress or through an across the board sequestration. The 12-member, bipartisan, bicameral Super Committee was charged with reaching an agreement on at least \$1.2 trillion in savings by November 23 in order to avoid sequestration. From the outset, the Committee's ability to succeed was questioned given the huge philosophical divide between Republicans and Democrats on issues involving taxes and entitlement program reforms.

Although the Committee hired bipartisan staff and held a series of meetings and public hearings early on, the progress was extremely slow and consensus proved elusive. The looming November 23 deadline seemed to spur a series of offers and counteroffers beginning the week of November 7. Following numerous calls by budget experts, thought leaders and colleagues off the Committee to "go big," Democrats offered a proposal to raise \$1 trillion in tax revenue, cut spending by \$1 trillion and spend \$300 billion on a jobs/infrastructure package. Republicans summarily dismissed the proposal. Instead, Republicans countered with a package crafted by Senator Pat Toomey (R-PA) that opened a door for the consideration of revenue increases along with spending cuts. Discussions focused on trying to build on the proposal, but by the next day the progress evaporated.

The full Super Committee reportedly did not meet during the past two weeks. In its place, smaller subsets of the Committee continued to huddle, hoping to resurrect an agreement based on the Toomey offer. Several last ditch efforts to salvage a deal, including a reported \$650 billion offer by Republicans, occurred late last week. Ultimately, however, the Members' inability to bridge the divide over taxes and entitlements led co-Chairs Hensarling and Murray to throw in the towel in a joint public statement on Monday evening, November 21.

### **The Sequestration Process**

Now that the Super Committee has failed to reach agreement, the BCA calls for \$1.2 trillion in cuts to offset a commensurate increase in the nation's borrowing limit. As outlined below, the cuts take place under a so-called "sequestration" process that will begin in 2013.

The initial \$400 billion and subsequent \$500 billion in debt ceiling increases are expected to get the nation through the end of January or beginning of February 2012. As reported above, the BCA allows the President to request a third increase expected to get the nation through December 2012 or early 2013. This additional debt ceiling increase will be offset through a 10-year sequester beginning in January 2013 now that the Super Committee has failed.

The BCA apportions the automatic cuts evenly between two categories of spending: Security and Non-Security. For purposes of the sequester, the Security category includes the Department of

Defense and Non-Security accounts for all other spending. Certain spending is exempt from the sequestration including: war financing, military pay, Social Security, Medicaid, CHIP & Child Nutrition, SNAP (Food stamps), Supplemental Security Income, refundable tax credits (e.g., EITC), Veterans Benefits, Pell Grants and Federal Employees retirement.

<b>Step 1.</b> Reduce amount to be sequestered by 18 percent to account for reduced debt service cost	\$1.2 trillion $*(1-0.18) = \$984$ billion
<b>Step 2.</b> Divide Step 1 result by 9 (unless Congress acts, once the sequester goes into effect, it would be effective from 2013 to 2021)	\$109.3 billion
<b>Step 3.</b> Apportion 50 percent of amount to be sequestered to “Security” and “Non-Security”	\$54.6 billion

Approximately \$454 billion would come from Department of Defense programs. The law specifies that the sequester cannot capture more than two percent in savings from Medicare, estimated by the Congressional Budget Office (CBO) to be \$123 billion over 10 years.

### Key Agenda Items for the Remainder of 2011

When Congress returns from its Thanksgiving break the week of November 28, there will be only four full weeks before it adjourns again for Christmas and New Year’s. During that period, Congressional Leaders have said they will consider several must-pass items. There also are several items that large majorities in Congress would like to see prioritized. But, given the tight timeline, the hangover partisan rancor over the Super Committee’s dissolution, the billion dollar price tags of several of these initiatives, and continuing philosophical differences over how to pay for them, it is unclear whether all can be accomplished in the remaining weeks of 2011.

Based on MVC’s discussions with Congressional staff during the past 48 hours, here is our best collective judgment on the status of the handful of priority items that may be passed by Congress prior to the holidays this year.

<b>Legislative Item</b>	<b>Likelihood in 2011</b>	<b>Comments</b>
<b>Continuing Resolution/Omnibus</b>	Must pass	Current CR expires 12/16
<b>Defense Authorization and Defense Appropriations</b>	May pass	While both bills are a high priority and it's possible that defense auth. passes, approps. more likely is included in next CR or Omni rather than a stand-alone
<b>SGR/Doc Fix</b>	Likely pass	Doctors face a nearly 30 percent cut in Medicare reimbursement January 1
<b>Payroll Tax Reduction</b>	Likely pass	President pushing hard for extension
<b>Unemployment Insurance</b>	May pass	Big price tag may prove too heavy a lift when combined with payroll tax and doc fix, which are seen as somewhat higher priorities
<b>AMT Relief</b>	May pass	Given cost of extension and higher priorities, this one will likely wait until 2012
<b>Tax Extenders</b>	May pass	Same as AMT, but an even lower priority for 2011

#### **Preliminary Congressional Agenda for 2012**

<b>Legislative Item</b>	<b>Likelihood in 2012</b>	<b>Comments</b>
<b>FAA Reauthorization</b>	Likely	
<b>Cybersecurity</b>	Possible	On agenda, but could be time filler
<b>PDUFA/MDUFA/ADUFA</b>	Likely	Current authorization expires September 2012
<b>Transportation bill</b>	Likely	Possible that current authorization could be extended
<b>Farm bill</b>	Likely	Possible that current authorization could be extended
<b>Bush tax cuts</b>	Unlikely	Expire 12/31/12; unlikely to be resolved before 2012 elections
<b>Corporate tax reform</b>	Unlikely	Will be hearings and activity, given recent outline put forth by W&M Chairman Camp and interest by Finance Chairman Baucus, but action likely waits until 2013
<b>Nominations</b>		

### **Additional Challenges for Health Care Programs and Providers**

Whether or not the sequestration cuts take place, various health care sectors will continue to face risks throughout the remainder of 2011 and 2012 as Congress looks for ways to offset the cost of the Medicare doc fix, and, perhaps, other spending items, as well as pay-fors for additional deficit reduction efforts.

The Super Committee members (as well as Congressional Leaders this summer during discussions led by Vice President Biden) actively considered a range of provider cuts that could have negatively impacted a range of health care sectors, including hospitals, home health agencies, durable medical equipment suppliers, clinical laboratories, skilled nursing facilities, prescription drug manufacturers and private health plans. In addition, the Super Committee and Congressional Leaders this year also contemplated a series of proposals that would result in higher Part B and Part D premiums for higher-income Medicare beneficiaries, limits on first-dollar coverage under Medigap policies and higher Medicare copayments for certain services. Also, there were proposals to restructure federal Medicaid matching rate payments and limit provider taxes that could have resulted in lower federal Medicaid spending. All of these proposals remain as potential offsets for deficit reduction, the doc fix, or other spending items.

### **Conclusion**

As the Super Committee outcome underscored, future deficit reduction efforts will not be easy. Philosophical divisions over taxes and entitlement reforms stymied efforts to achieve \$1.2 trillion in deficit savings. Most experts agree that even more significant savings will have to be achieved in order to reduce the nation's long-term debt and put our economy on solid footing. Therefore, whatever modest efforts are made to rein in spending during the 112<sup>th</sup> Congress, it is likely that comprehensive corporate and individual tax reform, coupled with more substantial entitlement reform and spending reductions, will have to occur in 2013, following the 2012 elections.