



## Court Marshall: What happens next

**I guess we should not be surprised that next steps are likely to involve both sides marshalling their efforts in the courts<sup>1</sup> to secure a Presidential victory; this is, after all, the country with more lawsuits, lawyers and judges than comparable developed nations (c1).** According to the WSJ, there are more Biden paths to victory (14) than Trump paths (9), but this is simply a count of possibilities rather than an assessment of their likelihood, and things can change rapidly, as they did this morning when a truckload of ballots from Green Bay, Milwaukee and Kenosha meaningfully shifted the Wisconsin odds to Biden. Biden is now favored to win AZ, MI and WI, in which case he would only need 6 more electoral votes to win (from either NV, GA, PA or NC). **However, given the flexibility that election officials have in many unresolved states to grant recounts even when minimum victory thresholds are not met (c2), we should all prepare for a very messy few days.**

If Trump does end up losing, he'd be the first incumbent to do so in over 100 years at a time of strong economic and market tailwinds (c3). While Trump's tailwinds were stronger before COVID, trillions in gov't stimulus and Fed money-printing still propelled our election Tailwind Tracker to high levels. In contrast, losing incumbents like Bush, Carter, Ford and Hoover ran at a time of much weaker conditions. The last time an incumbent ran with strong tailwinds and still lost: William H Taft in 1912, who complained at the time that "there are so many people in the country who don't like me"<sup>2</sup>.

Should Biden eventually win as election odds now tentatively expect, the political pendulum would swing back sharply in the other direction (c4). But with the GOP expected to maintain very narrow control of the Senate (again, this is not resolved yet), a Biden administration will likely not be able to implement anything like the explosive Keynesian tax and spend policies that it ran on (c5). Whether this "**split decision**" by the electorate is a deliberate one (i.e., remove Trump but keep economic and tax policy where it is), or whether it's the byproduct of regional, class and racial antagonisms is for sociologists to analyze. As investors, we need to contemplate a partial reversal of the "Blue Wave" portfolio of stocks and sectors that markets had been favoring since July (c6), and consider the market-related policies under control of the Executive Branch that Biden can implement on his own: energy policy (c7), some healthcare changes<sup>3</sup> (c8), China trade policy (c9), immigration (c10), Iran (c11), antitrust policies and net neutrality.

**We're holding a webcast tomorrow morning at 11am EST to walk through the implications. I look forward to speaking with you then.**

Michael Cembalest, JP Morgan Asset Management

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<sup>1</sup> **Litigation we're watching:** Harris County TX drive-through votes; Michigan, Minnesota North Carolina, Pennsylvania and Wisconsin absentee ballot deadline extensions; Texas limitation of absentee ballot drop-off sites; Pennsylvania election accommodations (more drop-off sites, softening signature matching requirements); Arizona extension of voter registration deadline; Tennessee and Texas absentee ballot restrictions; Postal Service disruptions; Ohio drop-box rules; Nevada vote counting rules, Florida felon voting rules, etc.

<sup>2</sup> "*The American Experience: Theodore Roosevelt*" with David McCullough, 1996.

<sup>3</sup> While healthcare laws usually require legislative approval, the Executive Branch can conduct "demonstration" projects to examine the impact of the Federal Gov't negotiating Medicare Part D drug prices. The Trump administration announced intentions to conduct such projects in April 2020.



**APPENDIX EXHIBITS**

**C1: Litigation measures in select developed countries**

**Various measures of litigation**

Per 100,000 people

	Australia	Canada	France	Japan	U.K. or England	USA
Suits filed	1,542	1,450	2,416	1,768	3,681	5,806
Judges	4.0	3.3	12.5	2.8	2.2	10.8
Lawyers	357	26	72	23	251	391

Source: Harvard Law School. November 2010.

**C2: Swing state recount rules**

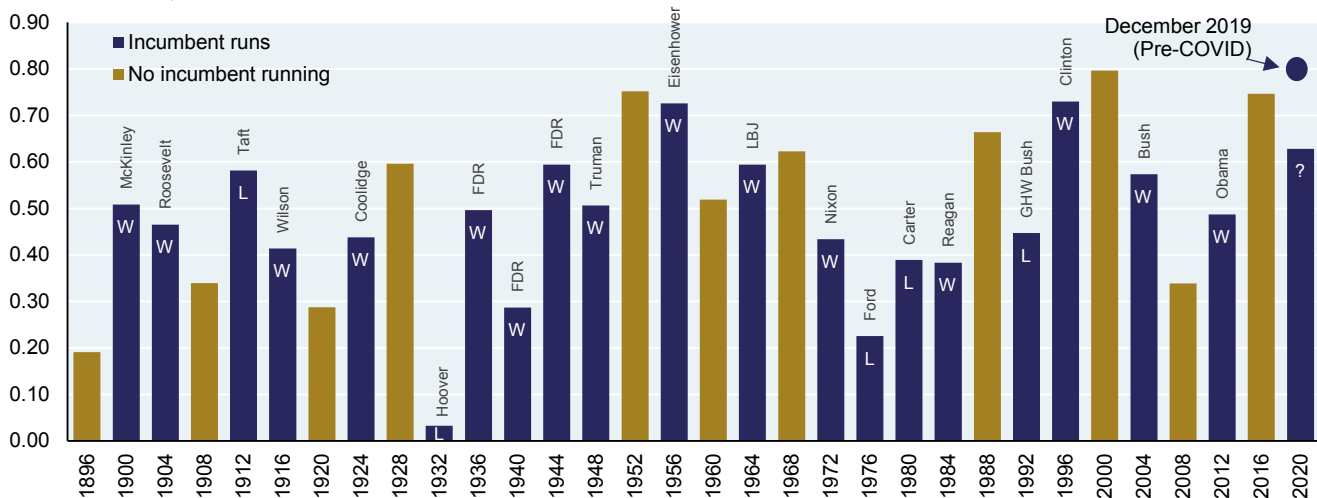
State	Automatic Recount	Threshold for Automatic Recount	Candidate Can Request a Recount	Recount Request Margin of Victory	Election Official Discretion
Arizona	Y	0.1%	N	N/A	Y
Georgia	N	N/A	Y	0.50%	Y
Michigan	Y	2,000 votes	Y	None required	Y
North Carolina	Y	Error driven, not based on margin of victory	Y	Lesser of 10,000 votes and 0.5%	N
Pennsylvania	Y	0.5% or voting discrepancies	N	N/A	Y
Wisconsin	N	N/A	Y	1% difference	N

Ballotpedia. November 2020.

**C3: Our Presidential tailwind tracker, 1896-2020**

**Will 2020 break the 100-year trend in which incumbents with strong tailwinds win re-election?**

Market/economic conditions at each election, derived from inflation, equities, employment, home prices and per capita GDP (higher score = more favorable conditions)



Sources: Home prices (S&P/Core Logic/Shiller/BLS); consumer and producer prices (BLS); US large cap equity returns and volatility (Shiller/Bloomberg); unemployment levels and changes (BLS, C. Romer/UC Berkeley); US per capita GDP vs G10 (Conference Board, Maddison/University of Groningen); JPMAM, 2020. Inflation percentiles based on deviation from target 2% level.

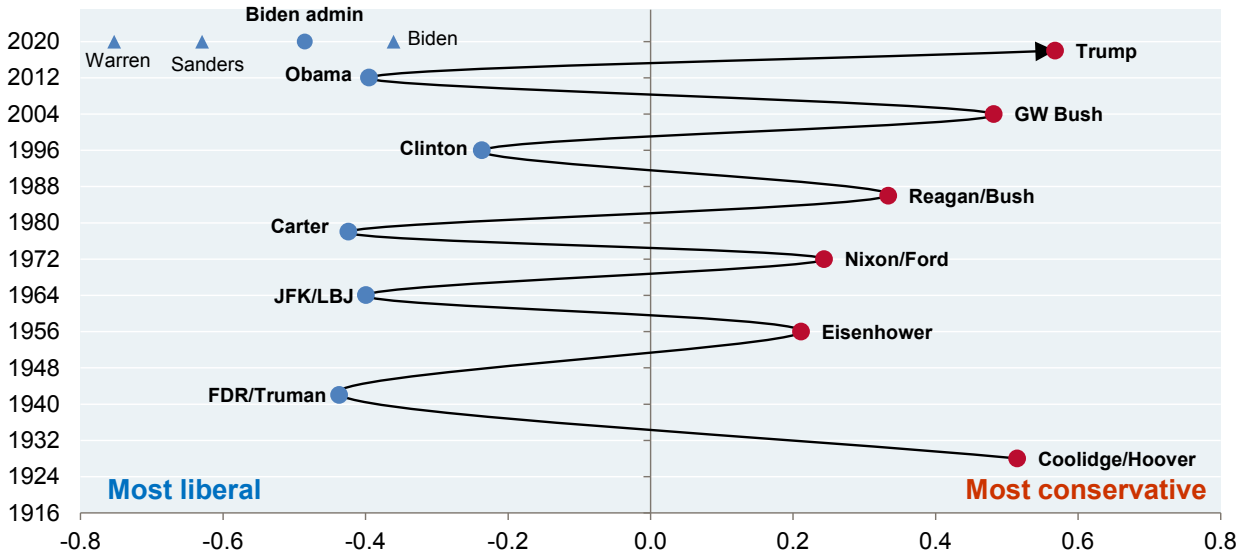


**C4: The political pendulum of US administrations**

The chart below shows the ideological swings in US Presidential administrations since the 1920’s. The scores are empirically derived from Congressional voting records, as explained below the chart. The chart does not yet show the outcome of the 2020 election.

**Political ideology of US Presidents and their administrations**

UCLA Voteview Liberal-Conservative scores, derived from Congressional voting histories



Source: VoteView Roll Call Votes database, JPMAM. 2020.

**Who's included in each administration's score**

- Biden admin: Bass, Biden, Clyburn, Coons, Hoyer, Pelosi, Richmond, Sanders, Schumer, Warren
- Trump admin: Cotton, Graham, Hatch, McCarthy, Meadows, Paul, Perdue, Ryan, Scalise, Sessions, Gaetz, McConnell, Jordan
- Obama admin: Biden, Durbin, H. Clinton, Kennedy, Kerry, Obama, Pelosi, Reid, Waxman
- GW Bush admin: Ashcroft, Blunt, Cheney, DeLay, Kyl, McConnell, Santorum
- Clinton admin: Bentsen, Carper, Chiles, Gephardt, H. Ford, Nunn, Robb
- Reagan/Bush admin: Baker, Bush, Dole, Kemp, Latta, Laxalt, Lugar, Michel
- Carter admin: Bayh, Byrd, Hawkins, Mondale, O'Neill, Wright
- Nixon/Ford admin: Ford, Lott, Percy, Rhodes, Sandman, Scott, Wiggins
- JFK/LBJ admin: Bolling, Humphrey, JFK, Johnson, Mansfield, McCarthy, McCormack
- Eisenhower admin: Dirksen, Dulles, Flanders, Nixon, Saltonsall, Smith, Taft
- FDR/Truman admin: Barkley, Black, Byrns, Garner, Guffey, McCormack, Robinson, Sabath, Truman
- Coolidge/Hoover admin: Curtis, Hawley, Longworth, Moses, Tilson, Watson

**Methodology**

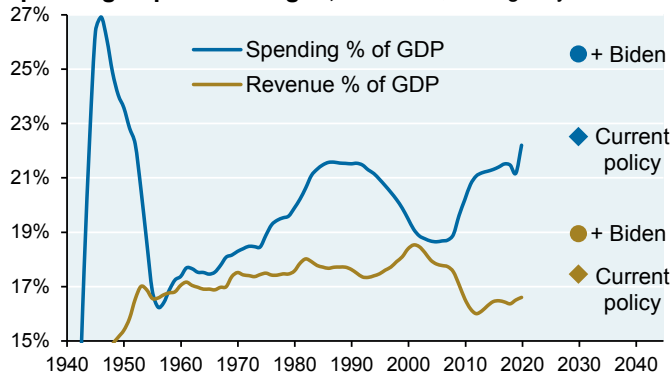
Each administration's ideology is based on politicians we selected, which include members of its Executive Branch with Congressional voting histories, and prominent members of Congress that supported major legislative initiatives of that administration, and/or defended its political and governing principles. The dots indicating the level of political ideology are derived empirically from Congressional voting records using Nokken-Poole first dimension Voteview data, and reflect the ideological intensity of politicians by looking at how frequently they voted with their bloc. Please see our December 10, 2018 *Eye on the Market* for details on methodology.

Data: Jeffrey Lewis, Keith Poole, Howard Rosenthal, Adam Boche, Aaron Rudkin and Luke Sonnet (2019). Voteview: Congressional Roll-Call Votes Database.



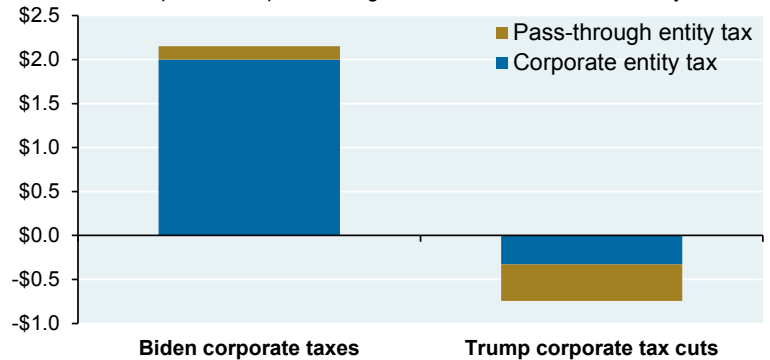
**C5: Biden’s taxation and spending agenda**

**Biden agenda would propel tax revenues and gov’t spending to post-war highs, % of GDP, trailing 10 years**



Source: OMB, CBO, Cornerstone Macro Research, JPMAM. September 2020.

**Biden proposed corporate tax increase vs Trump corporate tax cuts**  
US\$ trillions, corporate and pass-through taxes raised/reduced over 10 years

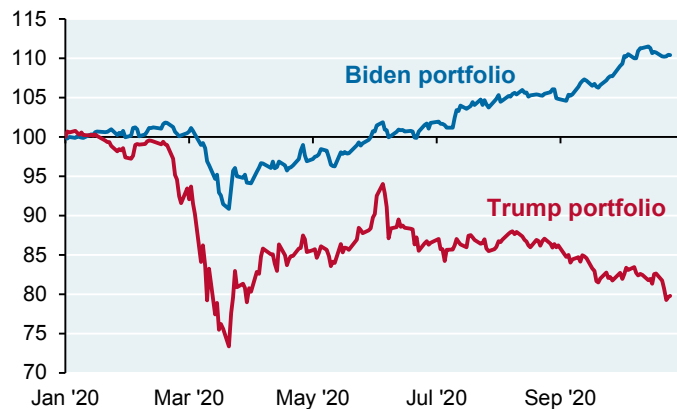


Source: Cornerstone Research, Joint Committee on Taxation. October 2020.

**C6: Biden vs Trump thematic equity portfolios**

**Biden vs Trump portfolio performance**

Jan 2020 = 100



Source: Bloomberg, Barclays Research, JPMAM. October 30, 2020.

**Biden portfolio**

**Long:** Renewable energy; infrastructure (construction & engineering, industrial machinery); China trade war stocks; companies with high international sales exposure; healthcare equipment and supplies

**Short:** Large cap pharma; labor intensive stocks (UPS, MCD, UBER, WMT, SBUX) sensitive to minimum wage increases; antitrust targets (FB, AAPL, AMZN, GOOGL); diversified banks

**Trump portfolio**

**Long:** Largest tax cut beneficiaries; oil and gas; aerospace and defense; healthcare; diversified banks

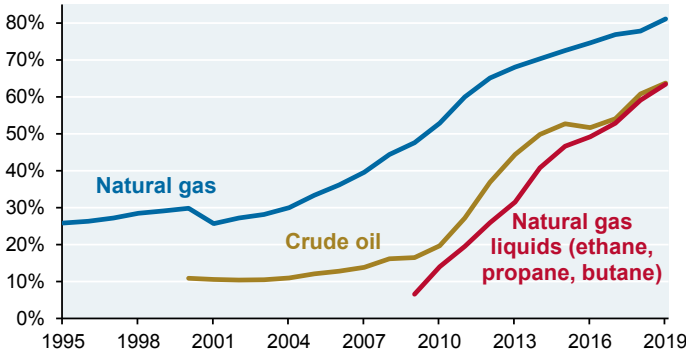
**Short:** China trade war stocks



**C7: Energy**

Issues in play: Hydraulic fracturing on public lands, ANWR, off-shore drilling, etc; Reversal of March 2020 Trump softening of automobile CAFE standards; climate related financial regulations; LNG export permits; US falling further behind Europe on decarbonization

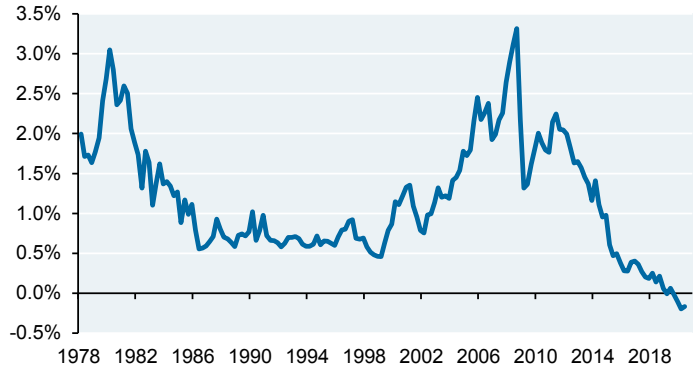
**Percentage of US oil and gas production derived from hydraulic fracturing through end of 2019**



Source: EIA, US Department of Energy, JPMAM. 2019.

**US net energy deficit, in dollar terms**

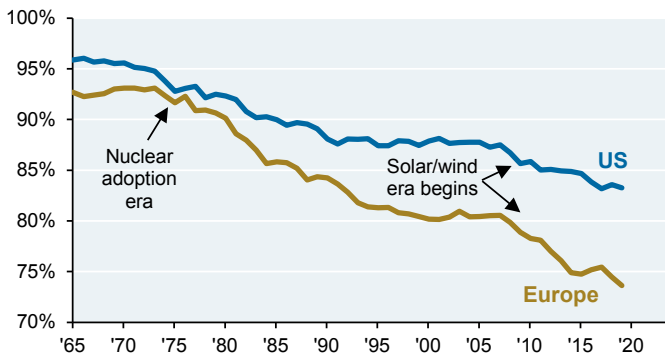
Energy imports - energy exports, % of GDP



Source: Bureau of Economic Analysis, Haver Analytics, JPMAM. Q2 2020.

**US vs Europe: fossil fuel consumption**

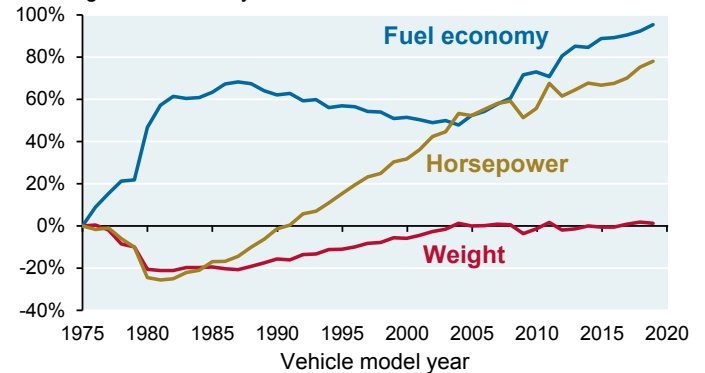
% of primary energy consumption from coal, oil and nat gas



Source: BP Statistical Review of World Energy, IEA. 2020.

**Change in estimated fuel economy, horsepower & weight**

% change since model year 1975



Source: EPA Automotive Trends Report. 2019.

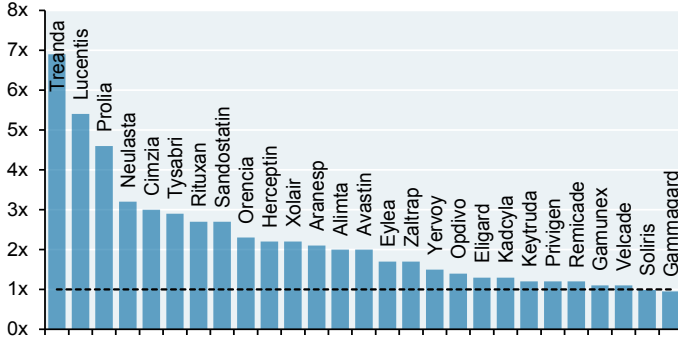


**C8: Healthcare**

Issues in play: Executive Branch can conduct “demonstration” projects on Medicare negotiation of drug prices

**US vs international prices for top Medicare Part B drugs**

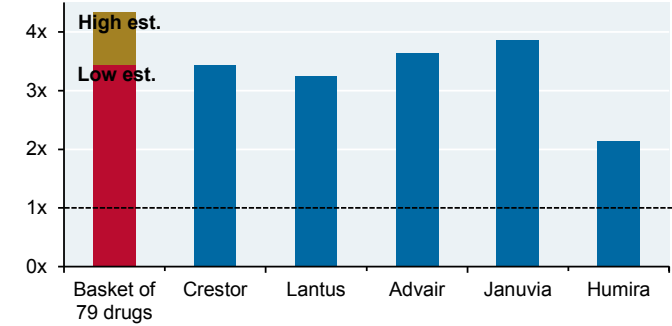
Ratio, US discounted price / average international price per gram



Source: "Comparison of U.S. and Int'l Prices for Top Medicare Part B Drugs by Total Expenditures", U.S. Department of Health & Human Services. 2018.

**US vs international prices for Medicare Part D drugs**

Ratio, US discounted price / average international price



Source: Red bar - Johns Hopkins School of Public Health, 2019. Blue bars - Commonwealth Fund, 2017.

**Large cap pharmaceuticals performance**

Relative performance vs S&P 500



Source: Bloomberg. October 30, 2020.

**Healthcare sector valuation premium/(discount) vs S&P 500**

Percent



Source: Bloomberg, Datastream. October 27, 2020.

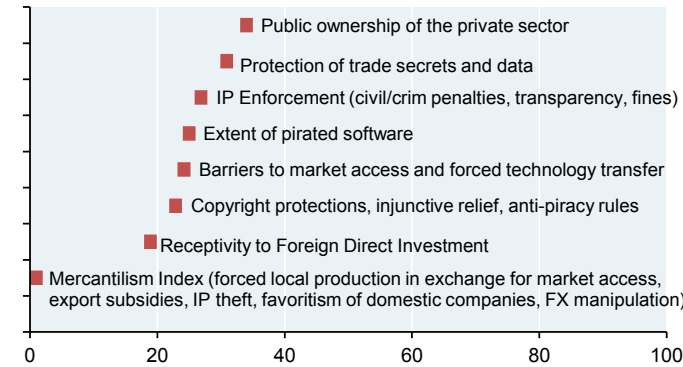


**C9: China trade war**

Issues in play: Concerns about Chinese mercantilism, and about Chinese human rights policies; when/if Trump tariffs would be reduced or removed; US official reaction to China compliance with Phase I agreement (agriculture, manufacturing and energy purchases)

**Points of dispute in the US-China trade war**

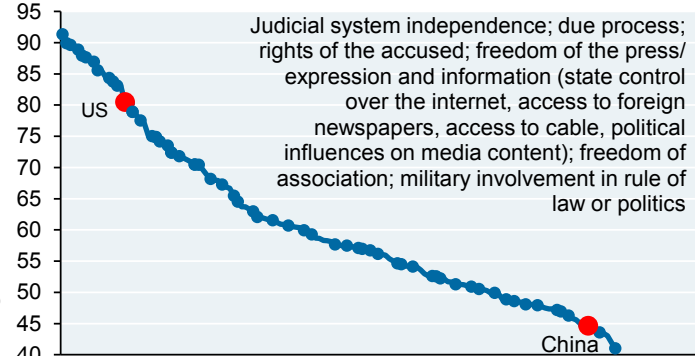
China's score vs the rest of the world, 100 = best, 0 = worst



Sources: OECD, BSA, GIPC, ITIF, Fraser Institute, JPMAM. 2019.

**The Rights of the Individual versus the State**

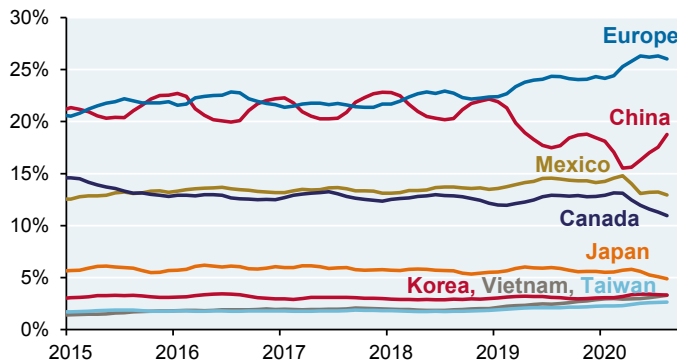
100 = greatest protections of the Individual



Source: JPMAM, World Economic Forum, CATO, Fraser Institute. 2019.

**Trade war impact on US import counterparties**

Share of US imports, 6 month average



Source: US Census Bureau. August 2020.

**US total imports vs imports from China**

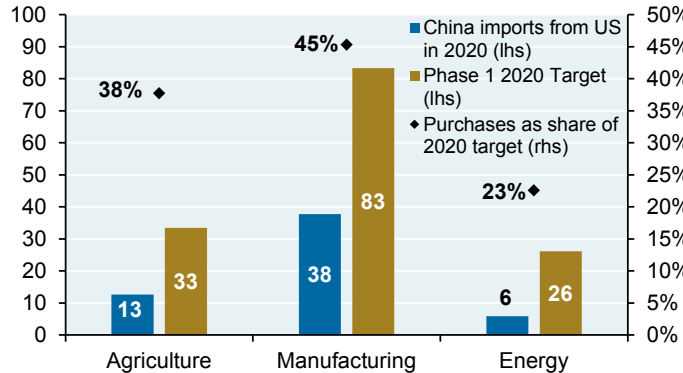
US\$ bn per month (both axes)



Source: US Census Bureau. August 2020.

**Progress of US-China Phase 1 purchase agreement**

US\$, billions (left axis) / % of 2020 target (right axis)



Source: US Census, USTR. September 2020.

**Relative performance of companies with high exposure to US-China trade war vs S&P 500, Jan 2018 = 100**

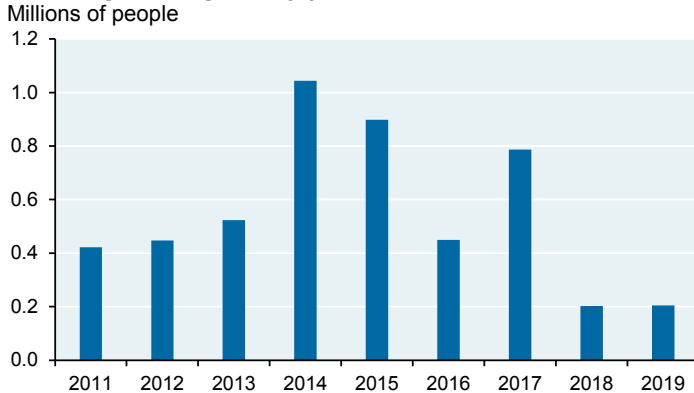


Source: Barclays Research, Bloomberg, JPMAM. October 30, 2020.



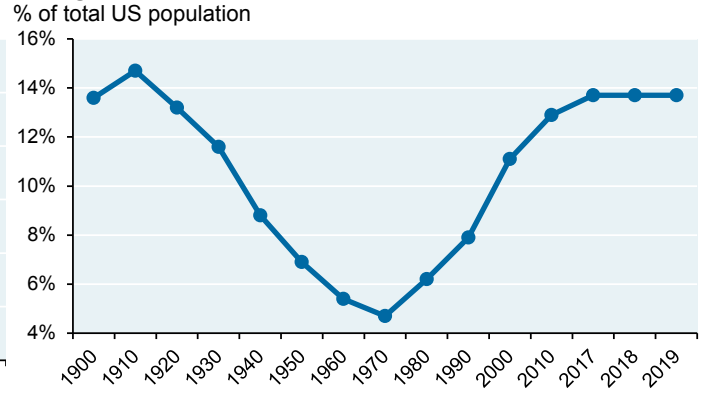
**C10: Immigration**

**US foreign-born gains by year**



Source: William Frey, Brookings Institution. September 2020.

**Foreign-born share of US population**

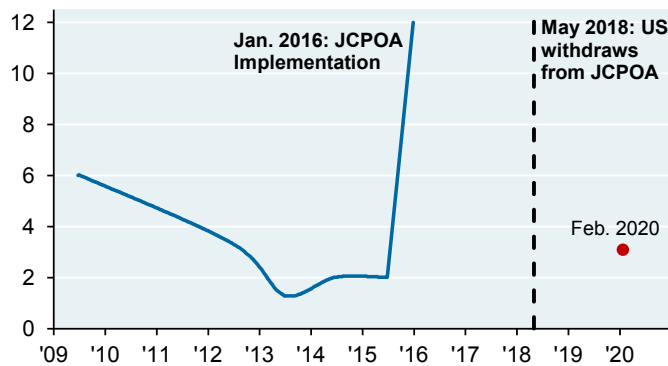


Source: William Frey, Brookings Institution. September 2020.

**C11: Iran**

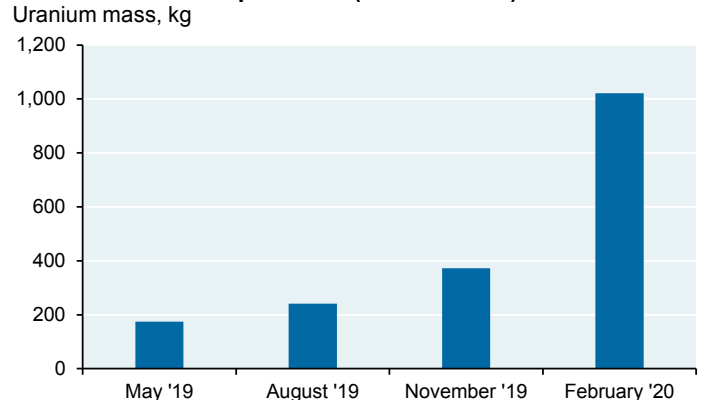
Issues in play: How to re-engage the US with European allies while still addressing some of the shortfalls in the initial agreement

**Minimal breakout times to produce weapons grade uranium, months**



Source: Institute for Science and International Security. April 2020.

**Enriched uranium quantities (less than 5%) in Iran**



Source: Institute for Science and International Security. April 2020.

**Iran oil exports**



Source: Bloomberg. October 2020.





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