

TRENDMACRO LIVE!

On the Cohen Plea Deal

Wednesday, August 22, 2018

Donald Luskin

It's the Clinton impeachment all over again: Trump is accused of lying about sex.

Imagine us making a withering sigh and rolling our eyes. With both the S&P 500 and equal-weighted US equity indices making all-time highs yesterday, it would have been pleasant to take a little victory lap on our early-February call that “we’ll be back to new highs much more rapidly than anyone now dares to expect” after “a pure test of our proposition that animal spirits and risk-tolerance have reawakened in the global economy” (see [“Inside the VIX Engine of Destruction”](#) February 8, 2018).

- But now come two tape bombs, the [conviction of Trump campaign aide Paul Manafort](#) on eight counts (out of eighteen), and the [guilty plea by Trump attorney Michael Cohen](#) of violating campaign finance laws “in coordination with and at the direction of a candidate for federal office... for the principal purpose of influencing the election.”
- *The Manafort matter is meaningless; it always has been, and it certainly is now, considering that all the news is out.*
- But we said from the day Cohen’s offices were raided that it represented the most salient threat in the whole Special Counsel investigation, which otherwise has done nothing to implicate Trump in “collusion” (see [“Risk-Back-On in a Week of Tape-Bombs”](#) April 16, 2018).
- The Cohen raid has gone right where we feared, to “criminal charges” that “seem peripheral or technical, yet are nonetheless real.” The bad news, as we put it at the time, is that this “would bring on a period of existential uncertainty about regime-stability that would, at least at first, be very challenging for markets.” *The good news is that here we are – at least the news is out, and it’s no worse than we feared, or than markets likely expected.*
- *How this affects President Trump – and markets – is purely a matter of politics, which is to say it is a matter of perceptions. Not law. Not facts.*
- *In these divisive times, we feel we must ask you to bear in mind that our comments here will not be about our political opinions or wishes – we are trying to illuminate the market-moving game of persuasion and propaganda that will be played now by both sides.*
- Trump’s opponents will encourage the perception that Cohen’s plea represents a set of proven facts, which *ipso facto* make Trump’s guilt beyond dispute.

Update to strategic view

US STOCKS, US

MACRO: US stocks made all-time highs, as we had expected, and then the Manafort verdict and the Cohen plea hit the tape. Cohen for the first time connects Trump with a crime. That will be portrayed by his detractors as a proven fact, but it’s just an allegation by way of Cohen’s testimony, which Trump can discredit. At first blush we don’t think this will have a lot of impact on the public. It’s no surprise that Trump is a philanderer. It’s easy to sympathize with his having to pay blackmail – which is not the same thing as trying to “influence the election.” Trump is accused of the same crime as Clinton in his impeachment: lying about sex, a peripheral matter stumbled upon by a special counsel who couldn’t come up with anything substantive. We don’t know what else Cohen might say, but if he had a lot to offer, he would have immunity by now. The proximate risk for markets is what Trump might do to control the news cycle, although it may also represent a window of opportunity for China to resolve the present trade dispute on more favorable terms.



Donald J. Trump
@realDonaldTrump

If anyone is looking for a good lawyer, I would strongly suggest that you don't retain the services of Michael Cohen!

7:44am · 22 Aug 2018 · Twitter for iPhone

- *That's not what Cohen's plea is. It is simply a form of testimony, or allegation – that there was “coordination” and “direction,” and that the “purpose” was “influencing the election.”* This all hinges on Cohen's ability to read Trump's mind as to his purpose, which transmutes what would ordinarily be a

lawful payment into a campaign finance violation due only to its intent and context. For Trump, it is now [a simple matter of discrediting Cohen's testimony](#) – claiming he is a low-life, claiming the plea was coerced, and so on (all true, probably). And by the way, so far Cohen has not even named Trump – he merely cited “a candidate.”

- Trump's opponents will encourage the perception that Trump's crime is egregious and substantive – that is, important enough to merit impeachment.
- Admittedly our view on that is just our own opinion, but we'd be very surprised if Trump's opponents can make very many people care a lot about this matter – at least people who weren't already opposed to Trump anyway.
- *First, it's no surprise to anyone that Trump is a serial philanderer.*
- *Second, most people are likely to understand that Trump was literally being blackmailed,* and had little choice except to pay. It is hardly “influencing the election” to pay off a blackmailer who himself is threatening to influence the election.
- *Third, it is in the nature of this kind of blackmail that the payment must be kept secret* – which is the essential ingredient in the payment being characterized as a campaign finance violation.
- *In a nutshell, the “crime” that Trump is alleged to have committed is the same one that got Bill Clinton unsuccessfully impeached – lying about sex.*
- *So the Clinton impeachment fiasco is a useful precedent for gauging public reaction,* which ended up being quite sympathetic in Clinton's case. There, too, a special counsel investigation that had turned up nothing in regard to the matter it was supposed to be investigating stumbled onto an unrelated sexual indiscretion.
- *The Clinton impeachment, which ran from December 19, 1998 to February 12, 1999, was not a negative for markets – in fact the S&P 500 rose 3.6% overall, having traded even higher during most of it.*
- It turned out in the Clinton impeachment that *voters aren't too concerned about personal matters, especially after they had been conditioned to expect some vastly grander high crime or misdemeanor.* They especially don't care about sexual indiscretions on the part of politicians already known to be rakish scamps (only on the part of those who hold themselves out falsely as saints). And apparently *voters can overlook a technical crime committed for the sake of protecting one's self from an over-reaching personal attack.*
- By the way, we don't see the composition of the Congress after the mid-terms as being determinative here. To be sure, if the GOP

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loses the House, it makes impeachment much more likely. But for it to happen, Democrats would have to think it's a politically wise move, and the Clinton episode should teach them otherwise. They may well remember that the GOP's aggressive pro-impeachment agenda in the 1998 mid-term led to an historical anomaly in which they *lost* five seats, and then they were foolish enough to press on in the lame duck session.

- In the Senate, where impeachment by the House is tried, it is highly unlikely that the GOP will lose control. If they did, it would only be by a single seat. It takes a two-thirds supermajority in the Senate to convict (in the Clinton episode, the GOP held 55 seats, and only 50 voted to convict).
- Are there important things we still don't know? Of course. Among many, we don't know what else Cohen might say. But while Cohen copped a plea, he has not so far received any sort of immunity in exchange for information or testimony. This suggests to us that he has nothing further to offer that might damage Trump. If he did, you can be sure that his attorney, Democratic operative [Lanny Davis](#), who represented Clinton during the impeachment (a relationship Trump will surely exploit, by the way), would have played that card. As things stand, Cohen's value in further investigations of Trump is limited to [vague claims made in the media](#) by Davis.
- As our first impression at this point, we are inclined to think that this will be just another news cycle – of which there will be dozens before the mid-terms, and hundreds before the 2020 presidential election.
- Perhaps that makes the proximate risk – in market terms – what Trump might do to seize control of this news cycle. On the downside, maybe he'll come up with some new tariff or sanction. On the other hand (and we hope saying this doesn't make us [guilty of collusion](#)), President Xi, if you are listening, this might be a good time to make a nice trade offer to Trump. He could use a victory.

Bottom line

US stocks made all-time highs, as we had expected, and then the Manafort verdict and the Cohen plea hit the tape. Cohen for the first time connects Trump with a crime. That will be portrayed by his detractors as a proven fact, but it's just an allegation by way of Cohen's testimony, which Trump can discredit. At first blush we don't think this will have a lot of impact on the public. It's no surprise that Trump is a philanderer. It's easy to sympathize with his having to pay blackmail – which is not the same thing as trying to “influence the election.” Trump is accused of the same crime as Clinton in his impeachment: lying about sex, a peripheral matter stumbled upon by a special counsel who couldn't come up with anything substantive. We don't know what else Cohen might say, but if he had a lot to offer, he would have immunity by now. The proximate risk for markets is what Trump might do to control the news cycle, although it may also represent a window of opportunity for China to resolve the present trade dispute on more favorable terms. ▶