This Week In Congress


Next Week In Congress

**House** – The House is expected to vote on S.J. Res. 68, a resolution directing the removal of United States Armed Forces from hostilities against the Islamic Republic of Iran that have not been authorized by Congress. The House may also vote on legislation to extend expiring provisions of the Foreign Intelligence Surveillance Act and on legislation to undo President Trump’s travel ban on people from mostly Muslim countries.

**Senate** – The Senate will continue consideration of S. 2657, “The American Energy Innovation Act.”

TAX

House Ways and Means Committee Holds on the FY2021 Treasury Budget with Secretary Mnuchin

Key Points:
- Treasury Secretary Mnuchin expressed concerns over the Foreign Investment in Real Property Tax Act (FIRPTA).
- Members of Congress questioned Secretary Mnuchin about the Electric Vehicle Tax Credit.

During a hearing on March 3, 2020 the House Ways and Means Committee discussed numerous tax issues with Treasury Secretary Mnuchin. Representative Marchant (R-TX) drew the Secretary’s attention to a letter signed by 13 members of the Ways and Means Committee which was sent on February 20. This letter requested Section Two of IRS Notice 2007-55 be withdrawn to “reduce tax complexity and burdens while spurring...
economic growth,” concerning FIRPTA. Secretary Mnuchin indicated he shares the bipartisan concern raised by Members of Congress and noted “it makes no sense that we discriminate against foreign investors, especially when many people just try to structure around the FIRPTA issue.” He told the Committee the Treasury Department is doing “anything [they] can do legally to encourage those investments.”

Representative Smith (R-MO) also raised concerns that a majority of the Electric Vehicle Tax Credits are going to the State of California. Congressman Smith noted this Electric Vehicle Tax Credit program is rife with fraud and waste. He asked the Secretary if this fraud and waste would be eliminated. Secretary Mnuchin responded that he would address that issue. Representative Kildee (D-MI) expressed support for the Electric Vehicle Tax Credit and said he wanted to ensure Department of Treasury was ensuring the enforcement of the credit. While there is bipartisan support for the Electric Vehicle Tax Credit in the House of Representatives, the Administration and some Republicans have been cool to it. The House Ways and Means Committee has been suggesting a markup of a “green energy” tax package could come in the coming months, though any extension and expansion of the EV credit would likely have to wait to be considered for an end-of-the-year package unless there is an infrastructure package. Last year, the Trump Administration pushed back on the EV credit in end-of-the-year tax talks.

**House Ways and Means Committee Held a Hearing Entitled “Examining the Impact of the Tax Code on Native American Tribes”**

**Key Point:** On March 4, the House Ways and Means Committee held a hearing to examine the impact of the tax code on Native American Tribes.

The hearing held on March 4 discussed topics including: (1) Dual Taxation; (2) Tax Credits; (3) Tax-Exempt Debt Offerings; and (4) the Impact of the Tax Cuts and Jobs Act. Three Members of Congress testified on the first panel including: (1) Representative Sharice Davids (D-KS); (2) Representative Deb Haaland (D-NM); and (3) Representative Markwayne Mullin (R-OK).

**New Score of Tax Proposals by Democratic Presidential Candidate Joe Biden Suggests They Would Raise $4 Trillion Over the Next Decade**

**Key Points:**

- Former Vice President Biden’s policy proposals would seek to repeal some individual tax cuts made under the Tax Cuts and Jobs Act (TCJA) on incomes over $400,000, raise corporate rate to 28%, tax capital gains as income for high earners, apply a minimum tax of 15% on corporate book income, and double the GILTI tax rate.

- This proposal would raise $4 trillion over the next decade, according to the Tax Policy Center.

According to the analysis by the Tax Policy Center, former Vice President Joe Biden’s tax plan shows marked increases in tax rates for high earning individuals and families as well as corporations. On the business side, this plan would raise the corporate tax rate to 28% from its current rate of 21%. This specific tax increase would raise $2.01 trillion over the next decade. The Biden plan would also apply a 15% minimum tax on corporate book income, raising $421.2 billion. The Biden proposal also doubles the GILTI foreign minimum income tax rate from 10.5% to 21% (note – effective GILTI rate is 13.125% because of limitations on foreign tax credits). That foreign minimum (GILTI) tax rate change would raise $241.5 billion, according to the TPC.
On the individual side, $962 billion would come from applying Social Security taxes to earnings above $400,000. The plan also proposes taxing capital gains at the same rate as earned income, on income over $1 million (at a 39.6% rate). The Tax Policy Center estimates this change and the tax on unrealized capital gains of more than $100,000 at death unless left to a surviving spouse or donated to charity, would raise $448 billion over the next decade. Former VP Biden’s plan would also produce about $432 billion by repealing income tax reductions from 2017’s Tax Cuts and Jobs Act for taxpayers with incomes above $400,000. He would restore their top individual tax rate to 39.6%, limit itemized deductions and phase out passthrough 199A business income deductions for these taxpayers. This tax proposal is a significantly targets those with higher income, with a 17% average tax increase on the top 1 percent and more than 23% for the top 0.1%. The top 20% of taxpayers would bear almost 93% of the tax increases in the Biden proposal. In contrast, no quintile in the bottom 80 percent would see an average tax increase of more than 0.5%, with nearly all of the higher tax burden resulting from indirect effects of increased corporate income taxes.

For more information about tax issues you may email or call Christopher Hatcher at 202-659-8201. Josh Hansma contributed to this section.

FINANCIAL SERVICES

The House Passes Four Financial Services Bills

Key Point:
- The House passed bills dealing with debt collection, Chinese lending practices, land use policies, and small dollar mortgages.

This week, the House passed four financial services bills:

- The Fair Debt Collection Practices for Servicemembers Act (H.R. _5003), introduced by Representative Madeleine Dean (D-PA), which would amend the Fair Debt Collection Practices Act (FDCPA) to prohibit debt collectors from threatening servicemembers or their families to have a servicemember’s rank reduced, have their security clearance revoked, or have them prosecuted under the Uniform Code of Military Justice. The bill passed by a vote of 355-0.

- The Ensuring Chinese Debt Transparency Act (H.R. _5932), introduced by Representative French Hill (R-AR), which would require the Treasury Secretary to “use the voice and vote of the United States” at international financial institutions to seek greater transparency of the terms and conditions of financing provided by the government of China to any country that is a recipient of financing from the international financial institution. The bill passed by a vote of 356-0.

- The Yes in My Backyard Act (H.R. _4351), introduced by Representative Denny Heck (D-WA), which would require localities that receive Community Development Block Grant funding to submit a plan to track and report on the implementation of certain land use policies that promote housing production. The bill passed by voice vote.

- The Improving FHA Support for Small Dollar Mortgages Act (H.R. _5931), introduced by Representative Lacy Clay (D-MO), which would require the Federal Housing Administration (FHA) to conduct a review of its policies to identify any barriers to supporting mortgages under $70,000 and report to Congress within a year with a plan for
removing such barriers. The bill passed by voice vote.

**SEC Issues Proposed Rules to Streamline Capital Access**

**Key Point:**
- The SEC issued a proposed rule to increase the offering limits under Regulation A, Regulation Crowdfunding, and Rule 504 offerings.
- The proposed rule would also harmonize certain disclosure requirements and provide greater certainty regarding general solicitation rules.

On March 4, the Securities and Exchange Commission issued a proposed rule on “Facilitating Capital Formation and Expanding Investment Opportunities by Improving Access to Capital in Private Markets.” SEC Chairman Jay Clayton and Commissioner Hester Peirce released statements in support of the proposal, while Commissioner Allison Herren Lee issued a statement in opposition. Lee argued that the proposed rule would weaken investor protection.

As noted in an SEC press release, the proposed rule would:
- address, in one broadly applicable rule, the ability of issuers to move from one exemption to another, and ultimately to a registered offering, providing more certainty to issuers raising capital;
- increase the offering limits for Regulation A, Regulation Crowdfunding, and Rule 504 offerings, and revise certain individual investment limits based on the Commission’s experience with the rules, marketplace practices, capital raising trends, and comments received;
- provide greater certainty to issuers and protection to investors by setting clear and consistent rules governing offering communications between investors and issuers, including permitting certain “demo day” activity without running afoul of the prohibition on general solicitation; and
- harmonize certain disclosure and eligibility requirements and bad actor disqualification provisions to reduce differences between exemptions, while preserving or enhancing investor protections.

The proposed rule will be subject to a 60-day comment period.

**Secretary Mnuchin Testifies in House Ways and Means, Appropriations Committees**

**Key Points:**
- Much of the discussion focused on the Administration’s response to the coronavirus.
- Other areas of focus included sanctions, financial services for cannabis businesses, and the Tax Cuts and Jobs Act.

This week, Treasury Secretary Steven Mnuchin testified before the House Ways and Means Committee and the House Appropriations Committee’s Subcommittee on Financial Services and General Government regarding the Treasury Department’s Fiscal Year (FY) 2021 budget request. Mnuchin testified that the Administration is monitoring the coronavirus and its effects on public health, supply chains, markets, and the overall economy. He discussed Administration’s support in working with Congress on an emergency funding package. He said the FY2021 budget request prioritizes economic growth and national security. He stated that the budget request calls for $12 billion in funding for the IRS, and they are also requesting a program integrity cap adjustment to reduce the tax gap with net savings of $64 billion over ten years. Mnuchin said the budget would provide enhanced funding for the Office of Terrorism and Financial Intelligence (TFI) and the Financial Crimes Enforcement Network (FinCEN). He noted that the budget request includes $10 million to digitize savings bond
information to allow individuals to verify ownership, which builds on the $25 million provided last year. He stated that they also propose legislation to return the Secret Service to the Treasury Department.

Financial Services and General Government Subcommittee Chairman Mike Quigley (D-IL) noted that the FY2021 budget request for the Treasury is $15.7 billion, which is $2.6 billion above the FY2020 enacted amount. He noted that it includes a $400 million discretionary cap adjustment for Internal Revenue Service (IRS) program integrity activities. Quigley said the budget request would provide a dramatic increase in funding for Treasury, of which $2.4 billion can be attributed to the proposed transfer of the Secret Service from the Department of Homeland Security (DHS) to the Department of the Treasury. He stated that the remainder of the increase would go towards the IRS and he expressed concern that it would be offset by cuts to Community Development Financial Institutions (CDFI) fund. Quigley commended the request for including robust funding for TF1 and FinCEN. He noted that the request also includes funding for staffing for the Committee on Foreign Investment in the United States (CFIUS) to support its expanded jurisdiction.

Financial Services and General Government Subcommittee Ranking Member Tom Graves (R-GA) stressed the benefits of the Tax Cuts and Jobs Act (TCJA) to middle class families, commending Treasury’s work on implementing it. Graves said the budget request would make important investments in border security and the military, which require tough decisions in other area. He said the Treasury budget request includes important funding for sanctions enforcement, national security reviews of foreign investments, cybersecurity, and IT infrastructure at the IRS. He stated that he would work with Chairman Quigley to ensure the Treasury Department has the resources it needs. He commended the work of the Coronavirus Task Force, questioning how the virus could affect the economy.

Representatives Charlie Crist (D-FL) and David Joyce (R-OH) spoke in support of the Secure And Fair Enforcement (SAFE) Banking Act (H.R. 1595), which would provide certainty to financial institutions about their ability to provide financial services to state-licensed marijuana businesses. They stressed the need to resolve the conflict between state and federal law, suggesting that forcing these businesses to operate in all cash creates a danger to communities. Mnuchin urged Congress to address the conflict between state and federal law, but repeatedly emphasized that he was not taking a position on how they should do so. He said Treasury lacks the authority to address the conflict. He noted that the IRS has had to build cash rooms to collect taxes from unbanked marijuana businesses.

Federal Reserve Finalizes Rule on Capital Requirements for Large Banks

Key Points:
- The Federal Reserve finalized a rule to simplify capital requirements for large banks.
- Governor Brainard opposed the rule, arguing that it will allow banks to weaken the capital buffers.

On Wednesday, the Federal Reserve Board approved a final rule to simplify capital requirements for large banks. The final rule would establish a stress capital buffer requirement. As noted in a Board memo, the final rule would, among other things, reduce the total number of regulatory capital requirements applicable to large banks from 13 to 8.

Vice Chairman for Supervision Randal Quarles issued a statement asserting that the rule “simplifies the post-crisis capital framework for banks, while maintaining the strong capital
requirements that are the hallmark of that framework.” Governor Lael Brainard put out a statement in opposition to the rule, in which she argued the “rule gives a green light for large banks to reduce their capital buffers materially, at a time when payouts have already exceeded earnings for several years on average.”

**House Financial Services Panel Holds Hearing Illicit Trade**

**Key Point:**
- The Committee announced the creation of a bipartisan Counter-Trafficking Initiative, designed to explore and expose the breadth and reach of transnational trafficking networks and their illicit finances.

On March 4, the House Financial Services Committee held a hearing entitled, “The Traffickers’ Roadmap: How Bad Actors Exploit Financial Systems to Facilitate the Illicit Trade in People, Animals, Drugs, and Weapons.” Chairman Emmanuel Cleaver (D-MO) noted the arrest of 21 individuals in a trafficking operation in his home district, and he expressed concern over the total number of worldwide human trafficking victims. He stated the trafficking of humans, animals, drugs, and weapons allow terrorist organizations like ISIS to fund their organizations. He noted the efforts of Chairwoman Waters, Ranking Member Hill, and himself to combat trafficking through a bipartisan counter-trafficking initiative. He declared trafficking is evolving and becoming more technical in order to traffic in stolen credit card information and usernames.

Ranking Member French Hill (R-AR) expressed concern over drug trafficking in his home state, and the opioid crisis it leads to. He testified he has met experts like Vanessa Newman, who has written a book on how American consumers unwittingly fund terrorists via the counterfeit industry. He expressed concern over the size of the illicit trafficking of tobacco, which he stated is larger than the illicit trafficking of oil and diamonds combined. He expressed concern that international crime and terrorist organizations have been working together to find funding workarounds via the trafficking industry.

Full Committee Ranking Member Patrick McHenry (R-NC) expressed support for the counter trafficking initiative, and stated it is the best way to understand the trafficking industry and who and what it funds.

**Upcoming Hearings and Meetings**

**March 10**

**Wells Fargo:** The House Financial Services Committee will hold a hearing entitled, “Holding Wells Fargo Accountable: CEO Perspectives on Next Steps for the Bank that Broke America’s Trust.”

**CFPB Oversight:** The Senate Banking Committee will hold a hearing on the Consumer Financial Protection Bureau’s (CFPB) Semi-Annual Report to Congress. CFPB Director Kathleen Kraninger will testify at the hearing.

**Debt Relief:** The Consumer Financial Protection Bureau (CFPB) will hold an event entitled “Evolution in Consumer Debt Relief.”

**Municipal Disclosure:** The Securities and Exchange Commission (SEC) will hold a conference on disclosure in the secondary market for municipal securities. The event will include panels on: (1) Voluntary Disclosure Practices in the Secondary Market; (2) Perspectives from the Buy Side; (3) Rule 15c2-12: Retrospective Review on Recent Amendments; and (4) Secondary Market Disclosure Hot Topics. The event will also include remarks from Chairman Jay Clayton and
March 11

**Wells Fargo:** The House Financial Services Committee will hold a hearing entitled, “Holding Wells Fargo Accountable: Examining the Role of the Board of Directors in the Bank’s Egregious Pattern of Consumer Abuses.”

**SEC Open Meeting:** The SEC will hold an open meeting to consider whether to adopt amendments to the accelerated filer and large accelerated filer definitions to promote capital formation for smaller reporting issuers by more appropriately tailoring the types of issuers that are included in the categories of accelerated and large accelerated filers and revising the transition thresholds for these filers.

**FEMA:** The House Transportation and Infrastructure Committee’s Subcommittee on Economic Development, Public Buildings, and Emergency Management will hold a hearing entitled “FEMA’s Priorities for 2020 and Beyond: Coordinating Mission and Vision.”

**Treasury Budget:** The House Appropriations Committee’s Subcommittee on State, Foreign Operations, and Related Programs will hold a hearing on the Treasury Department budget request for FY2021. Secretary Steven Mnuchin will testify at the hearing.

**Travel Insurance:** The House Oversight and Reform Committee’s Subcommittee on Economic and Consumer Policy will hold a hearing entitled “Examining Travel Insurance for Coronavirus-Related Cancellations.”

March 11-13

**CFPB Advisory Committees:** The CFPB will hold the Spring 2020 meetings of its Consumer Advisory Board, Community Bank Advisory Council, Credit Union Advisory Council, and Academic Research Council.

March 24

**Affordable Housing:** The House Financial Services Committee will hold a hearing entitled, “An Examination of Secretary Carson’s Efforts to Undermine Affordable Housing in America.”

**Digital Currency:** The House Financial Services Committee’s Subcommittee on National Security, International Development, and Monetary Policy will hold a hearing entitled, “A Review of Domestic and International Approaches to Digital Currencies.”

**OCC:** The Senate Banking Committee will hold a hearing on oversight of the Office of the Comptroller of the Currency (OCC). Comptroller Joseph Otting will testify at the hearing.

**Energy and Environmental Markets Advisory Committee:** The Commodity Futures Trading Commission (CFTC) will hold a meeting of its Energy and Environmental Markets Advisory Committee. The meeting will include panels on: (1) the proposed position limits for spot months, single month, and all-months-combined and (2) the proposed bona fide hedge exemptions from such position limits and related procedures. The Advisory Committee will also receive an update on recent developments within the energy derivatives marketplace.

March 25

**LIBOR:** The House Financial Services Committee’s Subcommittee on Investor Protection, Entrepreneurship, and Capital Markets will hold a hearing entitled, “The End of LIBOR: Transitioning to an Alternative
Interest Rate Calculation for Mortgages, Student Loans, Derivatives, and Other Financial Products.”

**Wells Fargo:** The House Financial Services Committee’s Subcommittee on Oversight and Investigations will hold a hearing entitled, “Holding Wells Fargo Accountable: Examining the Impact of the Bank’s Toxic Culture on Its Employees.”

**March 31**

**CFTC Open Meeting:** The CFTC will hold an open meeting to consider proposed amendments to bankruptcy rules (Part 190).

For more information about financial services issues you may email Joel Oswald or Alex Barham.

**HEALTH**

Congress Passes, President Signs Funding for the Coronavirus

**Key Points:**
- This week Congress passed legislation providing a total of $8.3 billion in funding to respond to the coronavirus outbreak far more than the $1.25 billion requested by the Administration.
- The House passed the bill by a vote of 415-2 and the Senate passed by a vote of 96-1. The President signed the bill on March 6.

On March 6, President Donald Trump signed legislation providing $8.3 billion in funding to address the novel coronavirus, Covid-19. The House passed the bill by a vote of 415-2 with only Representatives Andy Biggs (R-AZ) and Ken Buck (R-CO) voting against it. The Senate passed the bill by a vote of 96-1 with only Senator Rand Paul (R-KY) voting against passage.

The funding in the bill includes both new funds and transfers across multiple federal health agencies. Some funds are available until expended while other funds expire on set dates. The funding includes:

- $61,000,000, to remain available until expended, for the Food and Drug Administration to support the development of medical countermeasures and vaccines, advanced manufacturing of medical products, and the monitoring of medical product supply chains;
- $2,200,000,000, to remain available until September 30, 2022, to the Centers for Disease Control and Prevention to assist with surveillance, epidemiology, laboratory capacity, infection control, and other preparedness and response activities;
- $836,000,000, to remain available until September 30, 2024, for the National Institute of Allergy and Infectious Diseases for prevention, preparedness, and response; and
- $3,100,000,000, to remain available until September 30, 2024, to the Office of the Department of Health and Human Services Secretary for prevention and preparedness including prioritizing platform-based technologies with U.S.-based manufacturing capabilities in vaccine and countermeasure development.

It also includes funding for a number of other federal agencies including the Small Business Administration, Department of State, and U.S. Agency for International Development. Part of the funding will also be used to help reimburse state and local governments for their costs incurred for preparing and fighting the virus.
Upcoming Hearings and Meetings

**March 10**

**CDC:** The House Appropriations Committee will hold a hearing on “Centers for Disease Control and Prevention Budget Request for FY 2021.”

**Coronavirus:** The House Homeland Security Committee will hold a hearing on “Community Perspectives on Coronavirus Preparedness and Response.”

**Coronavirus:** The House Oversight and Reform Committee will hold a hearing on “U.S. Biodefense and Response to the Novel Coronavirus Outbreak.”

**March 11**

**Coronavirus:** The House Oversight and Reform Committee will hold a hearing on “Coronavirus Preparedness and Response.”

**FDA:** The House Appropriations Committee will hold a hearing on “Food and Drug Administration Budget Request for FY2021.”

**Coronavirus:** The House Oversight and Reform Committee will hold a hearing on “Examining Travel Insurance for Coronavirus-Related Cancellations.”

For more information about healthcare issues you may email or call Nicole Ruzinski Bertsch or George Olsen at 202-659-8201.

**TRADE**

**Bipartisan Congressional Approach on Digital Taxes and Trade Impacts**

**Key Points:**
- The House Ways and Means Committee held a hearing this week at which Members expressed bipartisan support for the Administration’s work to broker a multilateral compromise on digital taxes.
- Treasury Secretary Mnuchin assured Congress that the Administration is committed to delaying the imposition of France’s digital tax on U.S. companies during ongoing negotiations.

During a Tuesday Ways and Means hearing, Treasury Secretary Mnuchin was questioned by Members of both parties regarding progress on digital tax negotiations at the Organisation for Economic Co-operation and Development (OECD). Secretary Mnuchin assured Chairman Neal (D-MA) that “we all oppose [unilateral taxes on digital services],” and said President Trump was working personally with French President Emmanuel Macron to delay the implementation and collection of taxes. Representative Estes (R-KS) also expressed support for ongoing negotiations, saying there is “bipartisan and bicameral support for an OECD solution.” Secretary Mnuchin expressed confidence that an OECD solution would supersede taxes enacted at the national level.

This comes after an escalation of trade tensions with France centered on its new digital tax. The Administration had threatened to impose $2.4 billion in tariffs on French products in response to a December report from the Office of the U.S. Trade Representative (USTR) which found in a Section 301 investigation that the French digital services tax discriminated against U.S. technology companies. Presidents Trump and Macron were able to work out an agreement to delay the tariffs and collection of digital taxes
while the OECD continued negotiations. The main tool the U.S. appears ready to use to oppose these taxes would be a 301 tariff response. Meanwhile several other countries have either enacted or are considering digital taxes, including the U.K., Spain, Austria, Belgium, the Czech Republic, Hungary, Italy, Latvia, Norway, Poland, Slovakia, Slovenia, Turkey, and Canada – if the OECD process does not lead to a broad approach.

U.S.-EU Talks Stalling as Date for Added Airbus Tariffs Moves Closer

Key Points:

- The U.S. and European Union (EU) do not appear to be nearing a “mini-agreement” on a bilateral trade package.
- The U.S. is scheduled to increase duties on Airbus imports from 10 to 15 percent on March 18.

The U.S. and EU are continuing talks on a limited trade deal, with a delegation from the European Parliament visiting the U.S. for negotiations as recently as last week, but the prospects for reaching such a deal in the near future appear to be fading. The looming increase in Airbus import tariffs, from 10 to 15 percent, on March 18 had been viewed as a catalyzing event for reaching a modest or mini-agreement. EU Trade Commission Phil Hogan is planning to visit the U.S. on March 17, which had also been interpreted as a signal that the two sides were eying mid-March for announcing an agreement, but from public reports they do not appear to be advancing towards a consensus.

Senate Finance Chairman Chuck Grassley (R-IA) indicated this week that Congress would not support any deal that did not address U.S. agricultural concerns. Secretary of Agriculture Sonny Perdue has also been insistent in recent months that an EU deal should address issues like sanitary and phytosanitary (SPS) standards.

For more information about trade issues you may email or call Christopher Hatcher at 202-659-8201. Thomas McGrath contributed to this section.

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