This Week In Congress

**House** – Congress and the White House are continuing to negotiate on an emergency package in response to the coronavirus. The package is expected to include provisions on coverage for testing, paid sick leave, unemployment insurance, Medicaid funding, and nutrition assistance. The House passed S.J. Res. 68, a resolution to direct the removal of United States Armed Forces from hostilities against the Islamic Republic of Iran that have not been authorized by Congress, and H.R. 6172, a bill to extend and reform the Foreign Intelligence Surveillance Act (FISA), which is scheduled to expire on March 15.


Next Week In Congress

**House** – The House will remain in session to consider the coronavirus response package, after which it is expected to go into recess.

**Senate** – The Senate cancelled a planned recess to continue work on the coronavirus response bill. The Senate may also take up H.R. 6172, the FISA extension bill, but a short-term lapse appears likely.

TAX

President Trump Proposes a Federal Payroll Tax Holiday to Respond to COVID-19; Congress Adds Sick and Family Leave Tax Credits to COVID-19 Package

**Key Points:**
- President Trump proposed temporarily suspending the federal payroll tax until the end of the year, but Congress has not acted on his proposal.
- House Democrats, negotiating with Treasury, added payroll tax credits for sick and family leave to their package early Friday, though nothing is final.

Payroll Tax Proposal

The President and key economic advisors have proposed instituting a federal payroll tax holiday until the end of the year in order to combat the economic ramifications surrounding the spread of coronavirus. With much economic uncertainty, the Trump Administration has proposed instituting a federal payroll tax holiday.
until the end of the year. This tax holiday would delay the collection of both individual and business payroll taxes. According to a study conducted by the Tax Foundation this proposal would cost an estimated $950 billion if the tax were suspended between April 1 and December 31.

Many critics of the proposal expressed concern about the cost of the plan in tandem with other spending measures the government is taking to combat the virus. A key economic advisor to the President and Director of the National Economic Council, Larry Kudlow told reporters at a press briefing on March 10 when asked about the cost “I think there will be a big growth payoff. I think it’ll [Payroll Tax Holiday] help deal with whatever challenges occur in the next few months.”

This proposal by the President has failed to gain significant support so far in Congress, with House Majority Leader Hoyer (D-MD) calling the proposal a “non-starter.” Senate Finance Committee Ranking Member Wyden (D-OR) noted “[a] payroll tax cut would do little to help workers without paid sick days or those who have lost shifts and tips.”

House Package

The payroll tax holiday proposal was not included in the Democrat package the brought to the House on March 12, 2020. House Democrats this week introduced H.R 6201, The Families First Coronavirus Response Act, which includes a number of proposals to limit the economic effects of coronavirus. This proposal includes an additional $500 million for the SNAP WIC program as well as $400 million for commodity assistance.

The legislation was then subject to significant renegotiation with Treasury Secretary Mnuchin Thursday and into Friday. As a result, a revised version was drafted that eliminated the new “emergency paid leave program,” added a temporary requirement that leave more than 14 days would be paid, and added two employer payroll tax credits for paid sick leave and family leave, for employers with less than 500 employees. The credits would offset payroll tax liability and would be refundable to the extent the costs exceed the payroll taxes. The program would last one year from the effective date, in other words is temporary.

This legislation also includes additional unemployment and SNAP (food assistance) benefits; mandates coverage without cost-sharing (copays etc.) for coronavirus tests; expands Medicaid cost sharing to states; as well as including some other measures.

The legislation remains in flux, with discussions going on today with the White House and less clarity on how the Senate would address the bill. The Senate has cancelled their planned recess next week. If there is bipartisan agreement on the new bill, and endorsement by the President, then this bill may move quickly through Congress.

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

Secretary Mnuchin Testifies Regarding Treasury Department International Programs

Key Points:

- Much of the discussion at the hearing focused on the Administration’s response to the coronavirus.
- Secretary Mnuchin discussed potential responses to the economic effects of the virus, including loan guarantees for affected
industries, paid leave for workers, extension of certain tax payments, and payroll tax cuts.

On March 11, the House Appropriations Committee’s Subcommittee on State, Foreign Operations, and Related Programs held a hearing on the Department of Treasury budget request for Fiscal Year (FY) 2021. The Subcommittee received testimony from Treasury Secretary Steven Mnuchin.

Chairwoman Nita Lowey (D-NY) said the President’s FY2021 budget request proposes unsustainable cuts of nearly 20 percent to foreign assistance. She criticized the Administration’s efforts to end cooperation with multilateral agencies, suggesting that it allows Russia and China to move into areas where the U.S. has ceded leadership. Lowey raised concerns with the Treasury’s engagement on U.S. efforts to combat terrorist financing networks and enforce sanctions against rogue nations. She stated that the Administration has not taken a consistent or effective approach to sanctions. She stated that the Committee will craft a bill which maximizes taxpayer dollars while maintaining responsible investment with multilateral partners. Ranking Member Hal Rogers (R-KY) said Treasury was seeking $1.59 billion for international programs in FY2021, which is 8 percent less than the FY2020 enacted level. He noted that much of this would go to meeting annual commitments to international bodies, debt restructuring, and the Office of Technical Assistance (OTA). He stated that the decrease is due to a negotiated reduction in the pledge to the International Development Association (IDA) of the World Bank. He stated that this is part of a larger package of reforms the U.S. has advanced at the World Bank, expressing interest in how these reforms better align the World Bank with U.S. economic and national security priorities.

Secretary Mnuchin testified that the Administration is monitoring the coronavirus and its effects on public health. He stated that they are also working on economic programs to help individuals and businesses affected by the virus. He stressed that they are coordinating with international partners. Mnuchin said the FY2021 budget request includes $1.6 billion for international programs, including $1.5 billion for multilateral development banks (MDBs), $33 million for the OTA, and $78 million in relief for heavily indebted poor countries. He reiterated that he would work closely with Congress to address the issues associated with the coronavirus on a timely basis.

Ranking Member Rogers asked about the measures currently under consideration to stabilize the global economy. Mnuchin said the President is heavily focused on protecting the U.S. economy. He urged Congress to pass legislation quickly, including providing assistance to small- and medium-sized businesses directly impacted by the coronavirus. He noted that many workers will be required to self-quarantine or take care of affected family members. He suggested that it would be appropriate for the government to “pick up those costs” for small- and medium-sized businesses. He stated that these costs will need to be covered outside of normal expenses. He stressed the need to expand Small Business Administration (SBA) lending dramatically, which will require additional authorization. He said the Treasury Department is looking at providing substantial relief to certain taxpayers and small businesses by allowing them to receive extensions on their taxes, suggesting that they can inject over $200 billion in liquidity into the economy by delaying certain tax payments. He suggested that they could provide such relief administratively and without legislation from Congress. He stated that the President is very interested in a stimulus bill, whether it is through payroll tax cuts or other mechanisms. He
acknowledged that such a stimulus may not get done this week but emphasized the need to get as much as possible done this week. He stated that there may be specific industries which receive aid, stressing that these are not bailouts. He stated that certain industries may receive loan guarantees.

Senate Banking Committee Holds Hearing on the CFPB

Key Points:
- Republicans raised concerns with the constitutionality of the CFPB’s structure, arguing the Bureau should be restructured as a commission and made subject to the appropriations process.
- Democrats criticized the CFPB as failing to protect consumers under the Trump Administration.

On March 10, the Senate Banking Committee held a hearing entitled “The Consumer Financial Protection Bureau’s Semi-Annual Report to Congress.” The Committee received testimony from Consumer Financial Protection Bureau (CFPB) Director Kathleen Kraninger.

Chairman Mike Crapo (R-ID), touted the changes made to the CFPB under Director Kraninger. He asserted the fundamental structure of the CFPB must be changed. He noted the Supreme Court recently heard Seila Law v. CFPB to discuss the constitutionality of the structure of the CFPB. He asserted the single directorship structure of the CFPB lacks oversight. He stressed the need for a bipartisan board to oversee the CFPB, as well as the need to subject the CFPB to the annual appropriations process. He voiced concerns over the detailed nature of personal data collected by the CFPB with regards to mortgages and credit cards. He called for a change to the data privacy laws that currently exist, suggesting they should apply broadly across industries. Senators Tom Cotton (R-AR) and Mike Rounds (R-SD) also questioned the constitutionality of the CFPB’s structure and called for the Bureau to be subject to the appropriations process.

Ranking Member Sherrod Brown (D-OH) touted past gains made by the CFPB under the Obama Administration. He asserted the Trump Administration has sought to use the CFPB to benefit his wealthy friends and corporations at the expense of consumers. He criticized the CFPB under Director Kraninger, suggesting she allowed Education Secretary Devos to block the CFPB from protecting the 43 million Americans with student loan debt. He criticized the CFPB office which investigates civil rights abuses. He stated Director Kraninger has not filed any suits against predatory payday lenders since taking office. He expressed concern over the Supreme Court’s hearing on Seila Law v CFPB.

Senators Catherine Cortez-Masto (D-NV) and Doug Jones (D-AL) criticized the CFPB’s proposal to roll back provisions of the payday lending rule.

Senator Rounds stated he previously sponsored the Business of Insurance Regulatory Reform Act which would reaffirm the CFPBs relationship with respect to the insurance industry. He asked if the CFPB has the legal authority to regulate insurance. Kraninger responded in the negative.
SEC Adopts Final Rule Tailoring Accelerated Filer Definitions

Key Point:
- The final rule modifies the thresholds for accelerated filer and large accelerated filer status.

On March 12, the Securities and Exchange Commission (SEC) issued a final rule to amend the definitions of accelerated filer and large accelerated filer. As noted in an SEC press release, the amendments will:

- Exclude from the accelerated and large accelerated filer definitions an issuer that is eligible to be a smaller reporting company and had annual revenues of less than $100 million in the most recent fiscal year for which audited financial statements are available. Business development companies will be excluded in analogous circumstances.
- Increase the transition thresholds for an accelerated and a large accelerated filer becoming a non-accelerated filer from $50 million to $60 million and for exiting large accelerated filer status from $500 million to $560 million;
- Add a revenue test to the transition thresholds for exiting both accelerated and large accelerated filer status; and
- Add a check box to the cover pages of annual reports on Forms 10-K, 20-F, and 40-F to indicate whether an ICFR auditor attestation is included in the filing.

The final rule will become effective 30 days after its publication in the Federal Register.

Upcoming Hearings and Meetings

March 17

FDIC Board Meeting: The Federal Deposit Insurance Corporation (FDIC) will hold a board meeting to consider a proposed rule regarding “Parent Companies of Industrial Banks and Industrial Loan Companies.”

March 19

CFTC Open Meeting: The Commodity Futures Trading Commission (CFTC) will hold an open meeting to consider: (1) Final Rule: Amendment to Regulation 23.161—Compliance Schedule Extension for Initial Margin Requirements for Uncleared Swaps; (2) Proposed Rule: Amendments to Compliance Requirements for Commodity Pool Operators on Form CPO-PQR; (3) Final Interpretive Guidance: Retail Commodity Transactions Involving Certain Digital Assets; and (4) Other Commission Business.

March 24

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 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 31

CFTC Open Meeting: The CFTC is scheduled to hold an open meeting.

For more information about financial services issues you may email Joel Oswald or Alex Barcham.
ENERGY & ENVIRONMENT

Senate Fails to Advance Energy Legislation

Key Points:

- On Monday, the Senate voted to reject cloture motions that would have limited debate on bipartisan energy legislation.
- A dispute over whether to consider an amendment to phase out the use of hydrofluorocarbons motivated many of the Senators who voted against the cloture motion.
- Majority Leader Mitch McConnell suggested that the Senate could return to the legislation, however the chamber moved on to other business for the balance of the week.

On Monday the Senate failed to invoke cloture and limit debate on the “American Energy Innovation Act”. The legislation is a package of relatively non-controversial bills that the Senate Energy and Natural Resources Committee reported in 2019, and includes provisions addressing:

- Electric grid cybersecurity;
- Energy and building efficiency;
- Energy workforce and training;
- Industrial efficiency and competitiveness;
- Federal agency energy efficiency;
- Renewables;
- Energy storage;
- Carbon capture, utilization and sequestration;
- Nuclear;
- Industrial technologies;
- Smart manufacturing; and
- Vehicles.

Disagreement over whether to consider an amendment offered by Senators John Kennedy (R-LA) and Tom Carper (D-DE) to phase out the use of hydrofluorocarbons (HFCs) was one of the key reasons why the Senate failed to agree to cloture.

On Tuesday, following the cloture votes, Majority Leader Mitch McConnell (R-KY) expressed hope that the Senate could “get past this showmanship, finish this bipartisan legislation, and send it to the House so we can get it on the President’s desk.” Senate Minority Leader Charles Schumer (D-NY) countered that “because Leader McConnell does not allow amendments and debate and, instead, just adds more items to his legislative graveyard, the bill went down.”

Senate Confirms Danly to FERC

Key Points:

- On Thursday, the Senate voted to confirm James Danly as a FERC Commissioner.
- When sworn-in, Danly will fill one of two vacant seats on the five-member Commission.

On March 12, the Senate voted 52-40 to confirm James Danly to serve as a Commissioner of the Federal Energy Regulatory Commission (FERC). Danly will fill the slot vacated on the Commission by former Chairman Kevin McIntyre who passed away in January, 2019. Danly’s term extends through June 30, 2023.

In a statement, FERC Chairman Neil Chatterjee praised Danly, who has served as FERC’s General Counsel since 2017, as possessing “an exceptional ability to carefully and thoughtfully consider the legal and regulatory questions raised by matters before us…”

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Senate Democrats argued against confirming Danly, calling for his nomination to be “paired” with a Democratic nominee for the other FERC vacancy.

**Upcoming Hearings and Events**

**March 19**

**FERC Open Meeting:** The Federal Energy Regulatory Commission (FERC) will hold its monthly open meeting.

**Oil and Gas Development:** The House Natural Resources Committee’s Subcommittee on Energy and Mineral Resources and Subcommittee on Water, Oceans, and Wildlife will hold a joint field hearing titled “Oil and Gas Development in California: The Need to Protect Public Health and the Environment”.

**June 25**

**Reliability:** The Federal Energy Regulatory Commission (FERC) will hold a technical conference on “Reliability of the Bulk Power System”. The conference “will focus on reliability-related issues for the bulk power system, including: (1) the changing resource mix; (2) inverter-based resources and inverter-connected distributed energy resources; and (3) cybersecurity.”

For more information about energy and environment issues you may email or call Frank Vlossak at 202-659-8201. Updates on energy and environment issues are also available on twitter.

**HEALTH**

**CMS Announces New Insulin Model**

**Key Points:**
- The Centers for Medicare and Medicaid Services announced a new model for Part D plans to lower beneficiary cost-sharing for insulin.
- Both pharmaceutical manufacturers and Part D plan sponsors will need to apply to participate in the model which will begin January 1, 2021.

On March 11, the Centers for Medicare and Medicaid Services (CMS) announced the new voluntary model Part D Senior Savings Model which will provide patients with new choices of Part D plans that offer insulin at a lower out-of-pocket cost. CMS Administrator Seema Verma said the model “provides an innovative market-driven approach that removes barriers to lower insulin costs” which aligns with President Donald Trump’s commitment to lower prescription drug prices.

Under the model, CMS will test a change to the Manufacturer Coverage Gap Discount Program to allow Part D sponsors to create a benefit design with predictable co-pays in the deductible, initial coverage, and coverage gap phases of the benefit. This is done by offering supplemental benefits that apply after the manufacturer provides a discounted price for insulins included in the model. Plan sponsors participating in the model will offer beneficiaries plan choices with broad access to multiple types of insulin at a maximum $35 co-pay for a 30-day supply which should lead to an average savings of $446 in annual out-of-pocket costs for participating beneficiaries.

The model waives a current program disincentive for Part D sponsors to design prescription drug plans that offer supplemental benefits to lower beneficiary cost-sharing in the
coverage gap phase. Beginning January 1, 2021, CMS will test allowing Part D sponsors in the model to offer plans that provide supplemental benefits for insulin in the coverage gap phase. Manufacturers will pay the 70 percent discount in the coverage gap for insulins included in the model. The payment will be calculated before the application of the supplemental benefits under the model.

Pharmaceutical manufacturers will have until May 18, 2020 to apply to participate in the model. CMS will then make the list of pharmaceutical manufacturers participating available to Part D sponsors. Part D sponsors must submit a letter of intent to participate by April 10, 2020 and apply by May 1, 2020 to participate in the model.

Read the fact sheet on the model here.

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

TRADE

Trump Administration Pushing for June 1 USMCA Start Date

Key Points:

- Canada’s House and Senate approved implementing legislation. The bill now awaits an “order-in-council,” which is the final step in the process.
- The agreement will enter into force once all three countries have ratified the pact and verified that they have satisfied obligations outlined in their respective implementing bills by exchanging certifications.
- A June 1 deadline may be difficult to achieve with outstanding USMCA requirements and uncertainty regarding COVID-19.

USTR Robert Lighthizer received instructions “from the top” to make a USMCA entry-into-force by June 1. Outstanding USMCA requirements, uncertainty regarding the outbreak of COVID-19, and the fact that Canada’s ratification process has not concluded will make a June 1 entry-into-force date difficult to achieve.

The agreement will enter into force once all three countries have ratified the pact and verified that they have satisfied obligations outlined in their respective implementing bills. Sources have suggested that a premature entry date may present challenges for domestic and international automakers and parts makers because of lagging negotiations on uniform regulations, such as rules of origin (ROO). According to the U.S. implementing legislation, the regulations on implementation of the auto ROO must be issued by the USMCA entry-into-force date.

Several House Ways & Means Committee members raised concerns “about the pace of implementation in Mexico,” while meeting with USTR Lighthizer on Wednesday. The U.S. implementing bill calls for an interagency labor committee to be set up to oversee the implementation of USMCA labor provisions, robust capacity building in the form of other task forces, the creation of a 12-member independent labor-expert board, the establishment of an office in the Commerce Department to assist in the administration of the deal’s rapid-response tool, and an independent “Mexico labor expert board” to monitor and evaluate the implementation of Mexico’s labor reform and compliance.

Canada’s House of Commons and Senate passed USMCA implementing legislation Friday, and the bill received “royal assent,” or approval from the governor general. Finally, an “order-in-council” will be requested, the last
step in obtaining authorization to ratify and implement the agreement.

**House Democrats Push for Tariff Relief in Response to Coronavirus**

**Key Points:**

- On Wednesday, Democrats on the House Ways and Means Committee told U.S. Trade Representative Robert Lighthizer that the Administration should consider lifting tariffs to blunt the economic impact of the coronavirus.
- Peter Navarro, a top White House adviser on trade, rejected the idea, and stated “there are no discussions within the White House” about whether to suspend some tariffs even temporarily.

Democrats on the House Ways and Means Committee told USTR Lighthizer on Wednesday that the administration should consider lifting tariffs to blunt the economic impact of the coronavirus pandemic, but several members said he was not receptive to the proposal. Lighthizer said tariff product-exclusion processes set up by the Trump administration could be used, according to Rep. DelBene (D-WA). Peter Navarro, a top White House adviser on trade, called a full suspension of the payroll tax one of the best possible fiscal responses to an economy potentially hamstrung by the coronavirus. Both Treasury Secretary Mnuchin and White House Trade Advisor Navarro have dismissed the idea of using tariff reductions with Navarro stating, “there are no discussions within the White House” about whether to suspend some tariffs even temporarily.

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

This Week in Congress was written by Alex Barcham.