TAX

Bipartisan Policy Center Reports New ‘X Date’ for Federal Default

Key Points:

- A new Bipartisan Policy Center report indicates that the federal government may no longer be able to pay all of its bills in full and on time by the first half of September.
- The think tank argues that it would be reckless for lawmakers to not address the issue prior to the August recess.
- Treasury has not publicly set a date, which would be the official word on the subject.

According to a recent Bipartisan Policy Center (BPC) report, the date when the federal government can no longer pay all of its bills in full and on time could occur in the first half of September. Earlier this year, the same think tank forecasted a later date. Shai Akabas, BPC’s director of economic policy, stated that the “latest data reveal a serious risk that the ‘X Date’ could fall in early September, particularly if federal revenues underperform.” Akabas added that “[e]ven though our projection continues to show that the most likely timing of the ‘X Date’ remains early October, uncertainty is high, and it would be reckless for
policymakers to run the risk of default by failing to deal with the debt limit in advance of the August recess.”

If the BPC prediction is accurate, that suggests the Congress could need to act on the debt limit as soon as July, before leaving for the August recess, or in early September. While the BPC predictions are typically very accurate, only the Treasury Department can say for certain when the actual debt limit deadline is, and Treasury has not issued a new date.

**President Trump Asks USTR to Investigate French Digital Services Tax Proposal**

**Key Points:**
- President Donald Trump asked the USTR to investigate the potential effects of the French DST on U.S. tech companies that would place a 3 percent tax on about 30 companies that generate more than €750 million in global digital sales and more than €25 million in France.
- The U.K. has also introduced a proposal that would subject multinational companies with £500 million in worldwide revenues from digital activities, of which £25 million would have to be derived from U.K. users.
- Senate Finance Ranking Member Wyden (D-OR) said if the U.K. proposal were to be adopted, it would have serious consequences for any potential post-Brexit trade agreement with the U.S.

[Note - There is an article on this development with more detail in the Trade section.]

**New Form W-4 Expected in November or December**

On July 9, Internal Revenue Service (IRS) Commissioner Charles Rettig said a final version of the 2020 Form W-4 will be released by November or December. An initial draft of the Form was released May 31. In addition, Rettig continued to promote the IRS’s efforts to modernize its operations and improve the taxpayer experience. He specifically emphasized the agency’s six-year plan to revamp the IRS’s IT capabilities.

**House Ways and Means Committee Considers the Butch Lewis Act**

**Key Points:**
- The Ways and Means Committee passed the bill along party lines.
- The bill would provide funds for 30-year loans and new financial assistance, in the form of grants, to financially troubled multiemployer pension plans.

This week, the House Ways and Means Committee marked up and voted along party lines to advance the Butch Lewis Act, formerly known as the Rehabilitation for Multiemployer Pensions Act. The bill would provide funds for 30-year loans and new financial assistance, in the form of grants, to financially troubled multiemployer pension plans. Democrats argued that due to the financial situation faced by some multiemployer pension systems, federal assistance is needed to address the underfunding of union pensions. Republicans, on the other hand, argued that mismanagement on the part of union leaders and pension trustees are why certain pensions have failed.
How to address funding shortfalls in multiemployer pension plans was the subject of a special bipartisan, bicameral committee that could not come to a joint resolution last year. Nonetheless, members have agreed the issue is serious and needs to be addressed, suggesting bipartisan and bicameral efforts to find a legislative solution will continue.

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

FINANCIAL SERVICES

House Financial Services and Senate Banking Committees Receive Testimony from Federal Reserve Chairman Powell

Key Points:

- Several Members of both parties raised concerns related to Facebook’s development of a cryptocurrency.
- The Committee also discussed bank regulation, monetary policy, international insurance negotiations, and income inequality.

This week, the House Financial Services Committee and the Senate Banking Committee held hearings to discuss the Federal Reserve’s Semiannual Monetary Policy Report to the Congress, with Federal Reserve Chairman Jerome Powell testifying. House Financial Services Committee Chairwoman Maxine Waters (D-CA) stressed the importance of Federal Reserve independence, urging the Board to resist the pressure applied by President Trump. She also raised concerns with Facebook’s plan to create a cryptocurrency called Libra. She said the Committee sent Facebook a letter urging them to place a moratorium on any cryptocurrencies or digital wallets. She suggested that Facebook’s plans create privacy concerns. House Financial Services Committee Ranking Member Patrick McHenry (R-NC) stated that the economy has seen remarkable growth over the past two years, which has been supported by tax reform and regulatory relief. He urged the Federal Reserve to provide regulatory relief to allow U.S. banks to compete. He stated that he has concerns with the impact of global uncertainty on the economy, particularly from Brexit and China.

Senate Banking Committee Chairman Mike Crapo (R-ID) stated that the U.S economy remains strong, pointing to the low unemployment rate and the rise in wages but he urged regulators to continue to look for ways to tailor their regulations. He noted that S. 2155 was enacted more than a year ago, and he encouraged the Federal Reserve to: (1) simplify capital rules for community banks and set the community bank leverage ratio at 8 percent; (2) simplify the Volcker Rule; (3) harmonize margin requirements for inter-affiliate swaps with the Commodity Futures Trading Commission (CFTC); (4) examine whether recent proposals for foreign banking organizations are appropriate; (5) align the foreign bank proposal with the domestic bank proposal; (6) index any dollar thresholds in any tailoring thresholds; and (7) modernize the Community Reinvestment Act (CRA). Crapo stated that systemic risk and data privacy concerns have been raised with Libra, pointing to calls for Libra to meet the highest standards of prudential regulation. He expressed interest in how the Federal Reserve will engage with Facebook on this proposal. Senate Banking Committee Ranking Member Sherrod Brown (D-OH) pointed to rising income inequality in the U.S., and he urged the Federal Reserve to
pursue policies which reduce unemployment and increase wages. He raised concerns with the Federal Reserve’s regulatory policies, including the failure to activate the countercyclical capital buffer or address leveraged lending. He also expressed concern with the creation of a payment system by Facebook, which he described as an “unregulated” tech company.

Chairwoman Waters asked what Powell would do if the President told him he was fired. Chairman Powell responded that his answer would be no. Waters asked if the President has the authority to fire Powell. Powell asserted that the law gives him a four year term and he intends to serve it.

Several Republican and Democratic members on both committees raised concerns related to Libra. Chairman Powell responded that the Federal Reserve supports responsible innovation, but Libra raises serious concerns around privacy, money laundering, consumer protection, and financial stability, which must be addressed before the project proceeds. He stressed the need to take a patient approach to this issue, rather than a rushed approach, suggesting that a 12 month timeframe for implementation is not appropriate. He said there is no one regulatory agency with oversight over all of Libra.

Representative Bryan Steil (R-WI) and Senator Mike Rounds (R-SD) raised concerns with the ongoing negotiations at the International Association of Insurance Supervisors (IAIS) around the insurance capital standard (ICS). They stressed the need to ensure that any agreement works with the U.S.’s state-based system of insurance regulation. Rounds expressed concern that the EU is using the ICS as a backdoor to implement its Solvency II insurance capital framework worldwide. Chairman Powell said the Federal Reserve is coordinating closely with Treasury’s insurance office and the state regulators. He stated that they are in strong agreement that whatever is adopted must work for the U.S. system.

Financial Regulators Adopt Final Rule Exempting Community Banks from the Volcker Rule

**Key Point:**

- The financial regulators approved a rule to exempt community banks with $10 billion or less in total consolidated assets and liabilities of 5 percent from the Volcker Rule.

On July 9, the Securities and Exchange Commission (SEC), the Federal Reserve Board, the Federal Deposit Insurance Corporation (FDIC), the Office of the Comptroller of the Currency (OCC), and the Commodity Futures Trading Commission (CFTC) adopted a final rule to exclude community banks from the Volcker Rule, as required by the Economic Growth, Regulatory Relief, and Consumer Protection Act (EGRRCPA). As noted in an SEC press release, under the final rule “community banks with $10 billion or less in total consolidated assets and total trading assets and liabilities of 5 percent or less of total consolidated assets are excluded from the Volcker Rule.”

Additionally, the press released states:

The final rule also permits a hedge fund or private equity fund, under certain circumstances, to share the same name or a variation of the same name with an investment adviser as long as the
adviser is not an insured depository institution, a company that controls an insured depository institution, or a bank holding company.

The final rule will be effective upon publication in the Federal Register.

House Passes Seven Financial Services Bills

Key Point:
- The House passed legislation related to housing, securities regulation, rural access to credit, and whistleblowers.

This week, the House passed seven bills which originated in the House Financial Services Committee:

- H. Res. 456, a resolution emphasizing the importance of grassroots investor protection and the investor education missions of State and Federal securities regulators, calling on the Securities and Exchange Commission to collaborate with State securities regulators in the protection of investors. The resolution was introduced by Representatives Ayanna Pressley (D-MA) and Bill Huizenga (R-MI). It passed the House by voice vote.

- The Protect Affordable Mortgages for Veterans Act of 2019 (H.R. 1988), introduced by Representatives David Scott (D-GA) and Lee Zeldin (R-NY), which would revise the loan seasoning requirements related to a refinanced Department of Veterans Affairs (VA) housing loan. It passed the House by voice vote.

- The Housing Financial Literacy Act of 2019 (H.R. 2162), introduced by Representatives Joyce Beatty (D-OH) and Steve Stivers (R-OH), which would require the U.S. Department of Housing and Urban Development (HUD) to provide a 25-basis-point discount in upfront Federal Housing Administration (FHA) single-family mortgage insurance premiums for first-time-homebuyers who complete a housing counseling program to help them sustain homeownership. It passed the House by voice vote.

- The Expanding Access to Capital for Rural Job Creators (H.R. 2409), introduced by Representatives Cindy Axne (D-IA) and Alexander Mooney (R-WV), which would require the SEC to identify unique challenges rural small businesses face in securing capital, and to describe the most serious issues that these businesses and their investors face in its annual report to Congress. H.R. 2409 passed the House by a vote of 413-7.

- The Whistleblower Protection Reform Act (H.R. 2515), introduced by Representatives Al Green (D-TX) and Bill Huizenga (R-MI), which would expand whistleblower protections by amending Dodd-Frank to clarify that whistleblowers who report misconduct to their employers and not to the SEC also have protections against retaliation under the law. H.R. 2515 passed the House by a vote of 410-12.
The Improving Investment Research for Small and Emerging Issuers Act (H.R. 2919), introduced by Representatives Bill Huizenga (R-MI) and Ben McAdams (D-UT), which would require the SEC to report on investment research regarding small issuers, including emerging growth companies and companies considering initial public offerings. The bill passed the House by a voice vote.

The Expanding Investment in Small Businesses Act (H.R. 3050), introduced by Representative Bryan Steil (R-WI), which would direct the SEC to report on (1) the limitation on shares of an individual company that a diversified investment company may own, and (2) the limitation's impact on capital formation. H.R. 3050 passed the House by a vote of 417-2.

The Senate has not taken any action on these or similar bills.

**House Financial Services Subcommittee Holds Hearing on ESG Disclosure Legislation**

Key Point:
- The Subcommittee considered legislation to expand disclosures related to environmental, social, and governance issues.

On July 10, the House Financial Services Committee’s Investor Protection, Entrepreneurship and Capital Markets Subcommittee held a hearing entitled “Building a Sustainable and Competitive Economy: An Examination of Proposals to Improve Environmental, Social and Governance Disclosures.”

The discussed the following draft bills:
- H.R.____, To require issuers required to file an annual or quarterly report under the Securities Exchange Act of 1934 to disclose the total amount of corporate tax such issuer paid in the period covered by the report, and for other purposes.

Subcommittee Chairwoman Carolyn B. Maloney (D-NY) stated environmental, social, and governance (ESG) disclosures are very important, and there is considerable evidence that those companies that perform better on ESG metrics perform better financially overall. She stated many companies disclose at least some ESG information, but there needs to be more information disclosed. She stated the best way to improve the quality and consistency of these disclosures is for the SEC to establish ESG standards for public companies in the United States. She stated Representative Juan Vargas’s (D-CA) bill would require public companies to disclose certain ESG details. She said there is also the “Shareholder Protection Act,” which would require companies to disclose their political spending. She noted that many people believe that the SEC should not mandate these new ESG disclosures because companies should only be required to disclose information that is material. She stated this thought process was incorrect, because the
SEC mandates disclosure of many bits of information that is not tied to the concept of materiality. She then noted how if the SEC was only going to mandate “material” disclosure, this relies largely on the SEC staff knowing what information is considered material to each company.

Subcommittee Ranking Member Bill Huizenga (R-MI) stated demands for ESG data have increased and companies have agreed to these new demands. He said however, that ESG disclosures should not be compelled under penalty of law because they only name and shame companies. He stated the SEC should be focused on its current mandates of protecting investors, maintaining fair markets, and facilitating capital formation.

House Financial Services Committee Approves Bills on Credit Reporting, Board Diversity, and Housing

Key Point:
- The Committee passed bills to enhance disclosures related to outsourcing, gender diversity, and racial diversity.

On July 12, the House Financial Services Committee began a markup and approved the following bills:

- The Ensuring Diverse Leadership Act of 2019 (H.R. 281), introduced by Representative Joyce Beatty (D-OH), which would require the Federal Reserve Banks to interview at least one individual reflective of gender diversity and at least one reflective of racial or ethnic diversity when appointing Federal Reserve Bank presidents. The Committee favorably reported H.R. 281, as amended, by a vote of 56-2.
- The Improving Corporate Governance through Diversity Act of 2019 (H.R. 1018), introduced by Representative Gregory Meeks (D-NY), which would require companies to annually disclose the voluntarily self-identified gender, race, ethnicity & veteran status of their board directors, nominees, and senior executive officers. The Committee favorably reported H.R. 1018, as amended, by a vote of 53-5.
- The Homebuyer Assistance Act of 2019 (H.R. 2852), introduced by Representative Brad Sherman (D-CA), which would change the property appraisal requirements for mortgages backed by the Federal Housing Administration (FHA) by allowing licensed appraisers to conduct appraisals for such mortgages, rather than only certified appraisers. The Committee favorably reported H.R. 2852, as amended, by voice vote.
- The Diversity in Corporate Leadership Act of 2019 (H.R. 3279), introduced by Representative Carolyn Maloney (D-NY), which would require companies to disclose the gender, racial and ethnic composition of their corporate boards and nominees for the board of directors. The Committee favorably reported H.R. 3279, as amended, by a vote of 52-6.
- The Restricting Use of Credit Checks for Employment Decisions Act (H.R. 3614), introduced by Representative Al Lawson (D-FL), which would ban the use of credit information for most employment decisions, except when required by law or for a national

- The Free Credit Scores for Consumers Act of 2019 (H.R. 3618), introduced by Representative Joyce Beatty (D-OH), which would require consumer reporting agencies to give consumers free copies of their credit scores that are used by creditors. The Committee favorably reported H.R. 3618, as amended, by a vote of 32-26.

- The Appraisal Fee Transparency Act of 2019 (H.R. 3619), introduced by Representative Lacy Clay (D-MO), which would require federal appraisal standards, create a national registry of appraisers in training and provide consumers with greater transparency into the disclosure of fees paid for appraisals. The Committee favorably reported H.R. 3619, as amended, by voice vote.

- The Strategy and Investment in Rural Housing Preservation Act of 2019 (H.R. 3620), introduced by Representative Lacy Clay (D-MO), which would permanently authorize the U.S. Department of Agriculture’s Multifamily Housing Preservation and Revitalization (MPR) Program, require USDA to come up with a plan for preservation of rural multifamily housing backed by USDA loans, and establish an advisory committee to advise USDA in implementing this plan. The Committee favorably reported H.R. 3620, as amended, by a vote of 57-0.

- The Restoring Unfairly Impaired Credit and Protecting Consumers Act (H.R. 3622), introduced by Representative Rashida Tlaib (D-MI), which would shorten the time period in which adverse information would stay on a consumer report from seven years to four years. The Committee favorably reported H.R. 3622, as amended, by a vote of 32-26.

- The Improving Credit Reporting for All Consumers Act (H.R. 3642), introduced by Representative Alma Adams (D-NC), which would improve the process for consumers to resolve inaccuracies on their credit reports, including by creating a new right to appeal credit reporting decisions. The bill would also direct the Consumer Financial Protection Bureau (CFPB) to develop minimum standards for the credit reporting agencies. The Committee favorably reported H.R. 3642, as amended, by a vote of 32-26.

The Committee is scheduled to continue its markup on July 16 and consider the following bills:

- The Student Borrower Credit Improvement Act (H.R. 3621), introduced by Representative Ayanna Pressley (D-MA), which would amend the Fair Credit Reporting Act to remove adverse information for certain defaulted or delinquent private education loan borrowers who demonstrate a history of loan repayment, and for other purposes.
The Outsourcing Accountability Act of 2019 (H.R. 3624), introduced by Representative Cindy Axne (D-IA), which would require public companies to annually disclose the total number of employees they employ in each state and foreign country, as well as the percentage change from the previous year. The bill exempts smaller and newly-public companies from this requirement.

The PCAOB Whistleblower Protection Act of 2019 (H.R. 3625), introduced by Representative Sylvia Garcia (D-TX), which would establish a whistleblower program at the Public Company Accounting Oversight Board (PCAOB) similar to the whistleblower program at the SEC.

The Clarity in Credit Score Formation Act of 2019 (H.R. 3629), introduced by Representative Stephen Lynch (D-MA), which would direct the CFPB to set standards for validating the accuracy and predictive value of credit scoring models, both before their initial use by creditors and at regular intervals thereafter.

The Stronger Enforcement of Civil Penalties Act of 2019 (H.R. 3641), introduced by Representative Katie Porter (D-CA), which would increase the SEC’s statutory limits on civil monetary penalties.

Facebook’s Digital Currency: The Senate Banking Committee will hold a hearing entitled, “Examining Facebook’s Proposed Digital Currency and Data Privacy Considerations.” The witness at the hearing will be David Marcus, Head of Calibra, Facebook.

FDIC Open Meeting: The Federal Deposit Insurance Corporation (FDIC) will hold a board meeting to consider three items: (1) Final Rule to Amend 12 C.F.R. Part 370, “Recordkeeping for Timely Deposit Insurance Determination”; (2) Final Rule on Joint Deposit Accounts; and (3) Notice of Proposed Rulemaking – Proposed Amendment to Securitization Safe Harbor Rule.

July 17
Facebook’s Digital Currency: The House Financial Services Committee will hold a hearing entitled “Examining Facebook’s Proposed Cryptocurrency and Its Impact on Consumers, Investors, and the American Financial System.”

Economic Mobility: The Senate Banking Committee’s Subcommittee on Economic Policy will hold a hearing entitled “Economic Mobility: Is the American Dream in Crisis?” The witnesses at the hearing will be: Oren Cass, Senior Fellow, Manhattan Institute; Mr. Yuval Levin, Resident Scholar, American Enterprise Institute; Ramesh Ponnuru, Visiting Fellow, American Enterprise Institute; Ms. Thea Mei Lee, President, Economic Policy Institute; and Keith Miller, Principal, Franchisee Advocacy Consulting.

Upcoming Hearings and Meetings

July 16
Markup: The House Financial Services Committee will hold a continuation of its July 11 markup.
July 18  
**SEC Roundtable on Short-Termism in the Capital Markets:** The SEC will hold a roundtable on “Short-Term / Long-Term Management of Public Companies, Our Periodic Reporting System and Regulatory Requirements.” The roundtable will include two panels: (1) Impact of a Short-Term Focus on Our Capital Markets; and (2) Our Periodic Reporting System’s Role in Fostering a Long-Term Focus.

**Export Control:** The Senate Banking Committee will hold a hearing entitled “Export Control Reform Implementation: Outside Perspectives.” The witnesses at the hearing will be: Eric Hirschhorn, former Under Secretary for Industry and Security, U.S. Department of Commerce; Nova Daly, Senior Public Policy Advisor, Wiley Rein LLP; and Ben Buchanan, Senior Faculty Fellow for the Center for Security and Emerging Technology, Georgetown University.

July 24  
**SunTrust/BB&T Merger:** The House Financial Services Committee will hold a hearing entitled “The Next Megabank? Examining the Proposed Merger of SunTrust and BB&T.”

**July 25**  
**Alternative Credit Data:** The House Financial Services Committee’s Task Force on Financial Technology will hold a hearing entitled “Examining the Use of Alternative Data in Underwriting and Credit Scoring to Expand Access to Credit.”

**Investor Advisory Committee:** The SEC will hold a meeting of its Investor Advisory Committee. The agenda for the meeting includes: (1) Discussion Regarding the SEC Approach to Regulation in Areas with Limited Competition; (2) Discussion Regarding Trends in Investment Research and the Impact of MiFID II (which may include a recommendation from the Market Structure Subcommittee); (3) Discussion Regarding the Proxy Process (which may include a recommendation from the Investor as Owner Subcommittee); (4) Presentation on the Work of the SEC Office of the Advocate for Small Business Capital Formation; and (5) Presentation on the Work of the SEC Office of Minority and Women Inclusion.

**July 29**  
**Fixed Income Market Structure Advisory Committee:** The SEC will hold a meeting of its Fixed Income Market Structure Advisory Committee. The agenda for the meeting includes updates and presentations from subcommittees.

*For more information about financial services issues you may email Joel Oswald or Alex Barcham.*
HEALTH

House Energy and Commerce Committee Holds Markup of 10 Health Care Bills

Key Points:
- The House Energy and Commerce’s Health Subcommittee marked up 10 health care bills.
- Legislation included bills to reduce prescription drug prices, address surprise medical billing, expand newborn screenings, reauthorize health programs, and increase assistance to Medicaid programs in U.S. territories.

On July 11, the House Energy and Commerce Committee’s Health Subcommittee held a markup of 10 bills. The Subcommittee favorably reported the following bills by voice vote:
- **H.R. 3630**, To amend title XXVII of the Public Health Service Act to protect health care consumers from surprise billing practices, and for other purposes (No Surprises Act);
- **H.R. 2507**, Newborn Screening Saves Lives Reauthorization Act of 2019, as amended;
- **H.R. 2781**, Educating Medical Professionals and Optimizing Workforce Efficiency and Readiness (EMPOWER) for Health Act of 2019, as amended;
- **H.R. 728**, Title VIII Nursing Workforce Reauthorization Act of 2019, as amended;
- **H.R. 2035**, Lifespan Respite Care Reauthorization Act of 2019, as amended;
- **H.R. 2328**, Community Health Investment, Modernization, and Excellence Act of 2019, as amended;
- **H.R. 776**, Emergency Medical Services for Children Program Reauthorization Act of 2019;
- **H.R. 3631**, Territories Health Care Improvement Act.

The subject of most debate in the markup was the “No Surprises Act.” Chairman Frank Pallone (D-NJ) explained the bill would hold patients harmless in surprise billing situations by limiting their cost-sharing to in-network rates; insurer payments to providers would be tied to median in-network rates. Full Committee Ranking Member Greg Walden (R-OR) defended the bipartisan proposal against claims that it represented a “one-size-fits-all” rate setting proposal, noting the legislation would tailor benchmarks to commercial rates in specified areas. Several Members, notably Representative Larry Bucshon (R-IN) and Representative Raul Ruiz (D-CA) expressed opposition to the benchmark rate approach, arguing it would cause insurers to break existing contracts, limit provider networks, and undermine the transition to value-based care. They advocated instead for an independent dispute resolution process similar to New York’s arbitration model. Pallone acknowledged these concerns but espoused reservations about changing the bill given its bipartisan and bicameral support.

The drug pricing bill was also the subject of discussion, particularly related to a substitute amendment offered by Representative Buddy Carter (R-GA) which incorporated provisions.
from the following legislation: H.R. 2115, Public Disclosures of Drug Discounts Act (Section 3 of the underlying legislation) H.R. 2376, Prescription Pricing for the People Act (Section 4); and H.R. 2087, Drug Price Transparency Act (Section 5); H.R. 2064, “Sunshine for Samples Act” (Section 6); H.R. 3408/H.R. 3415, Shop Rx Act of 2019/Real-Time Beneficiary Drug Cost Bill (Section 7). Subcommittee Chairwoman Anna Eshoo (D-CA) spoke in favor of the amendment’s transparency measures, particularly the provision designed to shed light on the use of discounts negotiated by pharmacy benefit managers (PBMs). The Subcommittee favorably adopted the amendment by voice vote.

The Subcommittee also favorably recommended bills to reauthorize public health programs, which included an amendment to delay the scheduled payment reductions to disproportionate share hospitals (DSH) by two years, and increase federal funding to Medicaid programs in U.S. territories. The full Committee markup is expected to take place next week.

**President Issues Executive Order on Kidney Health**

**Key Point:**
- President Trump issued an Executive Order to improve kidney health by encouraging higher value care, encouraging innovation, and increasing access to kidney transplants.

On July 10, President Donald Trump signed an Executive Order on “Advancing American Kidney Health.” This Order seeks to address care for patients with chronic kidney disease and end-stage renal disease. It states it is the policy of the U.S. to prevent kidney failure whenever possible, increase patient choice, and increase access to kidney transplants.

The Order directs the Secretary of the Department of Health and Human Services (HHS) to:
- Within 120 days, launch an awareness initiative to educate patients and support programs that promote kidney disease awareness;
- Within 30 days, select a payment model to test innovations in compensation for providers based on kidney patient costs and quality outcomes aimed at preventing unnecessary hospitalizations and encouraging coordination of care;
- Within 30 days, select a payment model to evaluate the effects of creating payment incentives for greater use of home dialysis and kidney transplants for Medicare beneficiaries;
- Within 120 days, announce consideration of requests for premarket approval of wearable or implantable artificial kidneys and encourage innovation in new therapies through the Kidney Innovation Accelerator;
- Within 90 days, propose a regulation to enhance the procurement and utilization of organs available through deceased donation;
- Within 180 days, streamline the process of kidney matching and delivery; and
- Within 90 days, propose a regulation to remove financial barriers to living organ donation.

HHS Secretary Alex Azar also announced a prize competition which “seeks to identify ideas and solutions patients and care partners have developed to improve their daily life with
kidney disease.” The competition will be accepting submissions August 1, 2019 through September 16, 2019 which prizes awarded in two categories: Solutions in Practice and New Ideas. There will be up to 10 winners awarded $4,000 each from Category 1 and up to 15 winners awarded $2,000 each from Category 2.

Upcoming Hearings and Meetings

**July 15**

*Surprise Bills:* The Alliance for Health Policy will hold a briefing on “Balancing the Bills – Policy Solutions to Address Surprise Billing.”

**July 16**

*Fentanyl:* The House Energy and Commerce Committee will hold a hearing on “Oversight of Federal Efforts to Combat the Spread of Illicit Fentanyl.”

*Substance Use Treatment:* Pew Charitable Trusts will host a briefing on the barriers to substance use treatment and the policies needed to close the treatment gap.

**July 18**

*Pain Management:* Axios will host a discussion on the future of pain management including policy changes, investment in new research, and expanded access to non-opioid choices.

For more information about healthcare issues you may email or call Nicole Ruzinski Bertsch or George Olsen at 202-659-8201. Thomas McGrath contributed to this section.

**TRADE**

Update on China Trade Negotiations and Agriculture Purchases

**Key Points:**

- President Trump is hopeful that China will follow through on agriculture product purchases.
- The Trump Administration is open to allowing non-national security sales of Huawei equipment.

U.S. Trade Representative (USTR) Robert Lighthizer and Treasury Secretary Steven Mnuchin spoke on the phone with their Chinese counterparts Tuesday, marking the first high-level contact following the G-20 meeting. Face-to-face meetings are not yet publicly scheduled.

After President Trump met with Chinese President Xi Jinping at the G20 meeting in Osaka, Japan he indicated that the two agreed to restart trade talks between their countries. President Trump said he would hold off on imposing additional tariffs on Chinese imports (so-called “List 4” on an additional $320 billion in Chinese goods) in exchange for China buying large amounts of U.S. agricultural products. However, no official documentation was signed and Beijing officials claim President Xi made no hard promises on agriculture. In response to China’s hesitancy, President Trump tweeted Thursday, “Mexico is doing great at the Border, but China is letting us down in that they have not been buying the agricultural products from our great Farmers that they said they would. Hopefully they will start soon!”
Along the same lines, Senior White House advisor Larry Kudlow told reporters today that, “[I]n return for no additional tariffs and in return for a little opening with Huawei – not national security sales, but general sales – we expect China to be buying some U.S. farm products.”

**France Passes Digital Services Tax**

**Key Points:**
- France passed a digital services tax that will affect many large U.S. tech companies.
- French negotiators hope the tax will encourage the U.S. to negotiate with the OECD.
- USTR announces it will hold Section 301 hearings in August on the French DST.

Thursday, France passed a digital services tax (DST) that will hit U.S. tech companies with annual revenues from the covered services of at least €750 million globally and €25 million in France. French Economy Minister Bruno Le Maire justified the tax as France’s sovereign right. He said the DST will put the onus on the U.S. to work to find a better alternative via Organization for Economic Cooperation and Development (OECD) negotiations. The OECD has said it hopes to have a negotiated solution by the end of 2020. Le Maire told the French National Assembly that France would rescind the tax once OECD members agreed on how to handle digital taxes.

The Office of the U.S. Trade Representative (USTR) announced this week that it will hold a hearing on its Section 301 investigation into a French digital services tax on August 19. The U.S., citing statements from French officials, believes the tax is intended to hit large, U.S.-based tech companies while excluding smaller French businesses. Also, the tax will apply retroactively to January 1. USTR responded that, “[S]ince the tax is retroactive, companies covered by the DST may not track the data necessary to calculate their potential liability back to the beginning of 2019.” The U.S. has also argued that the DST appears to diverge from norms reflected in the U.S. tax system and the international tax system in several respects. These apparent departures include: extraterritoriality; taxing revenue not income; and a purpose of penalizing particular technology companies for their commercial success.

The USTR Section 301 Committee hearing in August will address whether the French tax is discriminatory, whether it “burdens or restricts U.S. commerce,” if it is a violation of France’s World Trade Organization obligations, and what actions, if any, the U.S. should take in response. Requests to appear at the hearing are due by August 12.

Last month, the Chair and Ranking Member of the Senate Finance Committee sent a letter to Treasury raising concerns with the French DST, suggesting the Administration consider possible responses including using IRC Sec. 891 which would allow the U.S. to double income taxes on companies and persons from a country “engaging in discriminatory taxation of Americans.” Both Senators applauded the Section 301 announcement, and also released a letter from Treasury in response that suggested Treasury was considering Sec. 891 and broader alternatives to respond to the French DST. The U.K. has also begun steps to consider a DST, which would be removed should a broader OECD approach be adopted.
According to government summaries, the UK DST would apply starting April 2020, and would raise £1.5 billion over four years by applying a new 2% tax on the revenues of search engines, social media platforms and online marketplaces which derive value from UK users.

**USTR Lighthizer Holds Meeting with House Democrats Working Groups on USMCA**

*Key Point:*
- Working group members indicated they intend to meet with Lighthizer weekly until an agreement is reached.

On July 11, USTR Lighthizer met with a Democratic working group to discuss changes they want made to the U.S.-Mexico-Canada Agreement (USMCA). Members of the working group indicated that they intend to meet with USTR Lighthizer weekly until an agreement is reached. House Ways and Means Committee Chairman Richard Neal (D-MA) said progress was made in the July 11 meeting, but declined to provide any specifics. Trade Subcommittee Chair Earl Blumenauer (D-OR), who is a member of the working group, said he hopes the House will vote on the USMCA in the fall.

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

This Week in Congress was written by Alex Barcham.