This Week In Congress


Senate – The Senate confirmed Kelly Craft to be the Representative of the United States to the UN General Assembly, Michelle Bowman to an additional 14 year term as a Member of the Federal Reserve Board of Governors, and Thomas Feddo to be Assistant Secretary of the Treasury for Investment Security.

Next Week In Congress

House – The House is expected to vote on a short-term spending bill to avoid a government shutdown at the end of the fiscal year. The House is also expected to take up H.R. 1423, “The Forced Arbitration Injustice Repeal Act.”

Senate – The Senate may begin consideration of its Fiscal Year 2020 Defense and Energy and Water appropriations bills. The Senate is expected to continue its consideration of multiple federal agency, judicial, and ambassadorial nominations.

TAX

House Democrats Signal Social Security, SALT Push

Key Points:

- Democrats aim to prioritize Social Security for the rest of the calendar year and will mainly focus on Representative Larson’s (D-CT) Social Security 2100 Act. Larson hopes to mark up the bill soon and have the House vote on it in October.

- Ways and Means Committee Chairman Neal (D-MA) also indicated that Democrats are looking to mark up a bill repealing the TCJA’s $10,000 cap on the state and local tax (SALT) deduction in October. The legislation will most likely be a combination of H.R. 1142 and H.R. 257.

Following a closed-door meeting of House Ways and Means Committee Democrats on September 10, Representative Kildee (D-MI) told reporters that “Social Security is one that will get a lot of attention.” Representative Larson (D-CT) introduced the Social Security 2100 Act, which has 210 cosponsors, no Republicans however, and has been the Committee’s main focus regarding Social Security. Republicans spoke against the legislation during a July hearing because of the

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gradual payroll increase from 12.4 percent to 14.8 percent by 2043. The bill also would raise the income threshold for taxing Social Security benefits to $50,000 for single filers and $100,000 for married couples. Social Security Subcommittee Chairman Larson predicts the Committee will markup the bill soon and have it on the House floor by October.

In addition to Social Security, Ways and Means Democrats are also aiming to markup a bill repealing the Tax Cuts and Jobs Act’s $10,000 cap on the state and local tax (SALT) deduction. Chairman Neal (D-MA) said Democrats “talked about SALT today; you’re going to see some activity on that, either this month or next month.” Chairman Neal did not add any additional details but Representative Pascrell (D-NJ) indicated that another committee meeting on the SALT deduction cap took place on September 12. Apparently, the tax extenders package that was marked up in June by the Ways and Means Committee was not mentioned during the Democrat’s meeting.

The approach on SALT will likely combine several existing approaches, including (H.R. 1142), introduced by Representative Pascrell (D-NJ) and Senator Menendez (D-NJ), a Senate Finance Committee member; and another bill (H.R. 257) introduced by Representatives King (R-NY) and Suozzi (D-NY). Pascrell’s bill would offset the change by increasing the top individual income tax bracket to its pre-TCJA level of 39.6 percent, while Suozzi has indicated that he prefers an increase in the corporate tax rate as an offset. Ways and Means Committee Ranking Member Brady (R-TX) said repealing the SALT cap is a nonstarter. Senate Finance Chairman Grassley has also indicated strong opposition to any SALT cap repeal, suggesting that House action is all that should be expected.

In regard to a possible energy tax extenders package, the Ways and Means Committee is likely to have a markup in the fall that will cover electric vehicle credits and related green measures.

Senator Wyden Offers Wealth Tax Proposal
Key Points:
- Senate Finance Ranking Member Wyden (D-OR) released a proposal he has been working on for several months that would make three main changes to taxation for wealthy taxpayers (those above $1 million annual income or $10 million in assets for three consecutive years): (1) capital gains would be taxed at the same rates as ordinary income; (2) mark-to-market and tax on any gains in tradable assets each year, like stocks; and (3) a retrospective tax would be applied on non-tradable assets like real estate, at the time of sale, to tax the value of “deferral,” with some exemptions or excluded amounts for personal residences and other assets.
- The release suggests the proposal would raise between $1.5 trillion and $2 trillion of revenue over 10 years, which would be dedicated to the Social Security system under Wyden’s proposal.

On September 12, Senate Finance Committee Ranking Member Wyden (D-OR) released a proposal that would generate $1.5-$2 trillion of revenue over 10 years. According to the press release on the Senate Finance website, the revenue would be used to protect the Social Security guarantee. Specifically, the proposal would equalize tax rates for wage and capital income, and minimize the benefit of deferring taxes. In addition, the plan would tax capital gains income at the same rates as wage income; require tax be paid each year on gains from tradable assets like stocks; and minimize the benefit of deferring tax on gains from the sale or transfer of non-tradable assets like real estate investments.
In regard to the anti-deferral accounting proposal, taxpayers with more than $1 million in annual income and/or more than $10 million in assets for three consecutive years are covered by the proposal. For tradeable assets, applicable taxpayers would be required to pay tax on the gain or take a deduction for losses on tradeable assets like publically-traded stocks, bonds, derivatives and securities held at the end of each tax year. The proposal would also calculate tax due on gain realized from non-tradeable property such as real estate, business interests or collectibles through a lookback charge. The charge would tax accrued gain and minimize the benefit of deferring tax.

House Democrats Push to Vote on Funding Package, Tax Provisions Unlikely To Be Included

Key Point:
- Democrats aim to vote on a short-term spending measure that would fund the IRS and other federal agencies past September 30 in order to avoid a government shutdown. The measure would fund the government through November 21 and would allow lawmakers time to negotiate broader tax legislation and detailed spending bills.

The House is working to vote soon on a measure that would fund the Internal Revenue Service (IRS) and other federal agencies past September 30 in order to avoid another government shutdown. House Democrats are pushing to vote next week on a short-term spending measure or continuing resolution (CR) that has yet to be introduced. The measure would fund the government through November 21 and currently does not include any tax provisions, according to a House Democratic aide. Should the House pass a short-term measure, it would allow lawmakers more time to discuss broader legislative goals, which could include tax priorities.

The apparent fact that the CR will not carry significant other tax provisions suggests an end-of-the-year package is the best chance for tax extenders, tax technical corrections and miscellaneous tax proposals (retirement etc.) – but action this year is not assured.

Proposed Depreciation Rules Advance through Office of Management and Budget

Key Point:
- OMB moved the second round of proposed regulations that help implement the Tax Cuts and Jobs Act’s bonus depreciation provisions through its regulatory review.

A second round of proposed regulations that help implement the Tax Cuts and Jobs Act’s (TCJA) bonus depreciation provisions has moved through the Office of Management and Budget’s (OMB) regulatory review. Today, the IRS and Treasury Department released final and new proposed regulations implementing the expansion of bonus depreciation.

The TCJA initially increased bonus depreciation under section 168(k) to 100 percent and expanded it to apply to previously used property that is new to the taxpayer. However, a drafting error by Congress left a class of property out that taxpayers use in both periodic and one-time remodeling unqualified for bonus depreciation.
Upcoming Hearings and Meetings

September 19

How the Tax Code Subsidizes Hate: On September 19, 2019 at 10:00 am in 1100 Longworth House Office Building, the House Ways and Means’ Subcommittee on Oversight will hold a hearing entitled “How the Tax Code Subsidizes Hate.”

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

Senate Banking Committee Holds Hearing on International Insurance Standards

Key Points:
- The Committee discussed the negotiations at the IAIS regarding the Insurance Capital Standard (ICS).
- Chairman Crapo and Senators Rounds and Scott stressed the importance of ensuring that the ICS recognizes the U.S. system of state-based insurance regulation.

On September 12, the Senate Banking Committee held a hearing entitled “Developments in Global Insurance Regulatory and Supervisory Forums”. The Committee received testimony from Federal Insurance Office (FIO) Director Steven Seitz, Federal Reserve Board Assistant Director Thomas Sullivan, and Maine Bureau of Insurance Superintendent Eric Cioppa (on behalf of the National Association of Insurance Commissioners).

Chairman Mike Crapo (R-ID) explained that the International Association of Insurance Supervisors (IAIS) has engaged in a multi-year effort to develop a group-wide international capital standard (ICS) as part of its common framework for internationally active insurance groups. He said that in 2018 the IAIS released a document proposing ICS 2.0 and said that these developments have generated serious concerns in the US. He said that these concerns include the proposed use of a market-adjusted valuation, the use of internal models, a lack of clarity about a process moving forward, and how outcome equivalency will ultimately be determined. He said that ICS 2.0 needs to reflect the uniqueness of insurers and specifically American insurers.

Ranking Member Sherrod Brown (D-OH) said that eleven years ago representatives from AIG were begging for a bailout, so he emphasized that it is critical for regulators and legislators to work together to promote financial stability. He said that he supports state-based insurance regulation, which allows insurers to serve small and large markets. He said that he supported a bill that was enacted that allowed the Federal Reserve to implement insurer-specific capital standards. He said that it is important to work with international counterparts to make sure that the U.S. regulatory system is recognized and respected around the world.

Crapo and Senators Mike Rounds (R-SD) and Tim Scott (R-SC) stressed the need to ensure that the ICS includes mutual recognition of the U.S. system of state-based insurance regulation. Rounds and Scott asked the witnesses if they would vote against the ICS if it does not include recognition of the U.S. system. Cioppa said it is important for the U.S. to stay engaged in the international negotiations. He asserted that the U.S will not adopt an ICS that does not work for its system. He said it would be premature to say they would vote ‘no.’ Sullivan said there is much to be done between now and November. He asserted that disengagement would not be helpful. Seitz said they will continue to work to ensure the ICS works for the U.S. system. Rounds said the U.S. already
established a bilateral deal with the EU on insurance standards through the U.S.-EU Covered Agreement on Insurance and Reinsurance. He noted that the covered agreement guaranteed mutual recognition of both systems of regulation, suggesting that it would be inconsistent of the EU to expect something different in the ICS. He urged “Team USA” to vote ‘no’ at the IAIS meeting if the ICS does not guarantee mutual recognition of the U.S. aggregation method.

House Financial Services Holds Hearing on Private Markets

Key Point:
- The hearing examined the factors contributing to the growth of private markets and potential legislative actions.

On September 11, the House Financial Services Committee’s Investor Protection, Entrepreneurship, and Capital Markets Subcommittee held a hearing entitled “Examining Private Market Exemptions as a Barrier to IPOs and Retail Investment.”

The hearing examined the following legislative proposals:
- **H.R. 609**, “Small Business Mergers, Acquisitions, Sales and Brokerage Simplification Act”

Subcommittee Chairwoman Carolyn Maloney (D-NY) stated that the growth of private markets is both explosive and troubling. She said that companies are staying private for much longer periods of time and that this excludes retail investors from important opportunities. She said that historically the private markets have been about half the size of public markets. She expressed skepticism that investment opportunities are better in the private markets. Maloney said that private markets have grown to be very large because both Congress and the Securities and Exchange Commission (SEC) have allowed the rules surrounding private markets to become lax. She stated that it may be time to reverse the trend towards deregulation. She said that several bills are being considered which would address these and other related issues.

Subcommittee Ranking Member Bill Huizenga (R-MI) said that historically initial public offerings (IPOs) have played an important role in the economy. He stated that the numbers of IPOs have decreased while the regulatory costs associated with IPOs have increased, while the number of IPOs in China has increased dramatically. Huizenga noted there are five bipartisan proposals under consideration which would help with both capital formation and investor protection. He pointed to H.R.609, stating it would provide important relief to small business owners who have been stifled by the high cost of regulation. He said that several of the bills under consideration have bipartisan support because they promote economic opportunities.

Full Committee Chairwoman Maxine Waters (D-CA) said that in 2000, private assets under management totaled less than $1 trillion while
today these assets have grown to a value of over $5 trillion. She argued that this shift from public to private markets will impact Americans of all walks of life. She stated that she is interested in the regulatory environment in which private companies operate and the effects that these regulations have on when and whether companies decide to go public, and what it means for investors.

Senate Banking Holds Hearing on Housing Finance Reform

Key Points:

- The Committee discussed the housing finance reform plans recently released by Treasury and HUD. Ranking Member Brown and several Democrats were critical of the reports.
- Chairman Crapo stressed the need for a legislative solution.

On Tuesday, the Senate Banking, Housing, and Urban Affairs Committee held a hearing entitled “Housing Finance Reform: Next Steps”. The hearing examined the reports on housing finance reform recently released by the Treasury Department and the Department of Housing and Urban Development (HUD). The Committee received testimony from Treasury Secretary Steven Mnuchin, HUD Secretary Ben Carson, and Federal Housing Finance Agency (FHFA) Director Mark Calabria.

Chairman Mike Crapo (R-ID) said Fannie Mae and Freddie Mac are still too big to fail and are even more leveraged than they were before the financial crisis. He stated that he agrees with the President’s goals of promoting competition, attracting private investment, and protecting taxpayers from additional bailouts. He explained that the recommendations preserve some incremental reforms that have occurred during the conservatorship, “including robust transfer of credit risk; the single security and common securitization platform; and loan pricing that does not vary based on a lender’s size.” He stated that the status quo has not been acceptable and that he would like to fix the situation through legislation. He said that five years ago important legislative attempts were made and that he has released a new plan to reform the system based on those efforts. He said that only Congress has the tools to reform the system so it is durable through any type of market cycle.

Ranking Member Sherrod Brown (D-OH) stated that the President’s plan will make mortgages more expensive and less accessible, noting that the U.S. is already encountering an affordable housing crisis. He said that fairness and access for everyday people need to be the guiding principles behind the development of any reform to the housing finance system. He asserted that the President’s plans would make it harder for smaller lenders to compete and would repeal consumer protections.

Chairman Crapo asked whether Fannie Mae and Freddie Mac are still too big to fail and if they are more leveraged now than before the financial crisis. Mnuchin, Carson, and Calabria all said yes. Chairman Mike Crapo (R-ID) asked whether a legislative solution is the best way to fix the system, and the witnesses all agreed.

Crapo asked what next steps can be taken to improve the housing finance system, such as amending the Senior Preferred Stock Purchase Agreements (PSPAs). Mnuchin said that his priority is to make sure that the government-sponsored enterprises (GSEs) have more capital. He said that he is in the midst of renegotiating agreements with FHFA to provide the GSEs with more capital while ensuring that taxpayers are compensated for their support. Carson stated that it is important to provide the tools and liquidity needed for the FHA to function. Calabria stated that he wants to make sure that FHFA is ready for a post-conservatorship world.
Ranking Member Brown asked whether the President has approved Mnuchin’s plans. Mnuchin said that he has not explicitly approved the plans although the President has been briefed on the plans. Brown asked whether it’s possible that the President did not approve the plan. He stated that the President should be aware that trusting Wall Street does not work and expressed concern that the President may have been unaware of the detriments of his own plan. Brown expressed concern that racial disparities in home ownership are not addressed in the plan. Mnuchin responded that the plan will not increase mortgage rates and that he supports affordable housing goals. He said that the report specifically says that he believes in affordable housing but that a system with more transparency is needed.

An SEC press release explained that:

The proposed amendments to the CAT NMS Plan would require self-regulatory organizations that are participants to the CAT NMS Plan (the “Participants”) to file with the Commission and publish a complete implementation plan for the Consolidated Audit Trail (“CAT”) and quarterly progress reports, each of which must be approved by the Operating Committee established by the CAT NMS Plan and submitted to the CEO, President, or equivalently situated senior officer at each Participant. In addition, the proposed amendments would include financial accountability provisions that establish target deadlines for four implementation milestones and reduce the amount of fee recovery available to the Participants if those target deadlines are missed.

SEC Proposes Amendments to the Consolidated Audit Trail

Key Point:

- The proposed amendments would require the CAT NMS Plan members to register with the SEC and publish implementation plans and quarterly reports.

On September 9, the Securities and Exchange Commission (SEC) issued proposed amendments to the Consolidated Audit Trail (CAT) National Market System (NMS) Plan aimed at enhancing public transparency and avoiding further delays. The amendments would require the Self-Regulatory Organization (SRO) participants to file with the SEC; publish an implementation plan for the CAT and quarterly progress reports; and “establish target deadlines for four implementation milestones and reduce the amount of fee recovery available to the Participants if those target deadlines are missed”.

SEC Chairman Jay Clayton issued a statement, in which he said:

I believe that the next six to twelve months will be critical for moving the CAT from concept to reality. I urge the SROs to continue their efforts to work cooperatively with each other and with the industry to fulfill their obligations under the CAT NMS Plan as promptly as practicable, always keeping front of mind the importance of cybersecurity and the protection of sensitive data.

House Financial Service Committee Holds Hearing on Climate Change

Key Point:

- The Committee discussed a draft bill to require the Federal Reserve and the SEC to issue annual reports on the impact of climate change.

On September 11, the House Financial Services Committee’s Subcommittee on National Security, International Development, and Monetary Policy held a hearing entitled
“Examining the Macroeconomic Impacts of a Changing Climate”. The hearing focused on a draft bill that would require the Federal Reserve and the SEC to each issue an annual report to the Congress projecting and accounting for the economic costs directly and indirectly caused by the impacts of climate change. Chairman Emanuel Cleaver (D-MO) asserted that climate change constitutes one of the biggest security threats to the U.S. He said that rising sea levels create a multitude of problems around the world and he expressed concern about the President’s decision to withdraw from the Paris Climate Accord and roll back environmental regulations. He expressed support for his draft bill to have the SEC and the Federal Reserve assess the costs of climate change.

Ranking Member Steve Stivers (R-OH) said that new regulations can disproportionately impact low and moderate income Americans. He expressed concern that the Federal Reserve may not have the expertise required to successfully assess the costs of climate change, and that additional regulation could lead to disproportionate burdens being placed on low and moderate income Americans. He said that rising regulatory costs and energy costs can eliminate jobs and cause the costs of the production of goods to increase. He discussed negative emissions technology, battery storage, and incentives to create modern building codes that can help make communities more adaptable, adding that he would like to make energy affordable and protect the environment.

Full Committee Ranking Member Patrick McHenry (R-NC) said that he believes that climate change is real however he disagrees with what he believes are the overreaches of the Green New Deal. He suggested that innovative policies are needed to change the carbon footprint. He said that regulators need to make accurate assessments of risk. He said that he would like to move past partisan politics and find appropriate solutions to the problem.

**Senate Confirms Financial Regulator Nominations**

**Key Point:**
- The Senate confirmed Michelle Bowman for an additional 14 year term as a member of the Federal Reserve Board of Governors.
- Thomas Feddo was also confirmed as Assistant Secretary for Investment Security at the Treasury Department.

On Thursday, the Senate confirmed a pair of nominations to federal financial regulators. The Senate confirmed Michelle Bowman to an additional 14 year term as a member of the Federal Reserve Board of Governors by a vote of 60-31. Bowman was previously confirmed in November 2018 to fulfill the remainder of the term expiring January 31, 2020. There are currently two vacant spots on the Federal Reserve Board.

The Senate also confirmed Thomas Feddo to be Assistant Secretary of the Treasury for Investment Security by a vote of 85-1.

**Upcoming Hearings and Meetings**

**September 16**

**CFTC Open Meeting:** The Commodity Futures Trading Commission (CFTC) will hold an open meeting to consider three items: (1) Final Rule on Revisions to Prohibitions and Restrictions on Proprietary Trading and Certain Interests in, and Relationships With, Hedge Funds and Private Equity Funds (Volcker Rule); (2) Final Rule on Position Limits and Position Accountability for Security Futures Products; and (3) Final Rule on Public Rulemaking Procedures (Part 13 Amendments).
September 17

**FDIC Board Meeting:** The Federal Deposit Insurance Corporation (FDIC) will hold an open meeting to consider two items: (1) Regulatory Capital Rule: Capital Simplification for Qualifying Community Banking Organizations; and (2) Notice of Proposed Rulemaking on Swap Margin Requirements.

**Financial Services Appropriations:** The Senate Appropriations Committee’s Subcommittee on Financial Services and General Government is expected to hold a markup of its Fiscal Year 2020 appropriations bill.

September 18

**SEC Open Meeting:** The SEC will hold an open meeting to consider adoption of amendments to the Prohibitions and Restrictions on Proprietary Trading and Certain Interests in, and Relationships with, Hedge Funds and Private Equity Funds (the Volcker Rule).

September 18-19

**Markup:** The House Financial Services Committee will hold a markup. The agenda for the markup has not yet been announced.

September 19

**SEC Investor Advisory Committee:** The Securities and Exchange Commission’s Investor Advisory Committee will hold a meeting to discuss the development of better disclosures for investors and increased leverage and its regulatory implications.

**SEC Chairman Speech:** SEC Chairman Jay Clayton will participate in a fireside chat at CNBC’s Delivering Alpha Conference.

**CFPB Symposium:** The Consumer Financial Protection Bureau (CFPB) will hold a symposium on behavioral economics. The event will include panels on: (1) the methodological foundations of behavioral economics and (2) behavioral law and economics and consumer financial protection. The event will also include remarks from CFPB Director Kathleen Kraninger and Deputy Director Brian Johnson.

September 23

**Federal Advisory Committee on Insurance:** The Federal Office of Insurance (FIO) will hold a meeting of the Federal Advisory Committee on Insurance (FACI). The agenda for the meeting includes updates from the subcommittees on the Availability of Insurance Products, the Federal Insurance Office’s International Work, and Addressing the Protection Gap Through Public-Private Partnerships and Other Mechanisms. The Committee will also receive an update from the FIO on its activities.

September 24

**SEC Oversight:** The House Financial Services Committee will hold a full Committee hearing entitled “Oversight of the Securities and Exchange Commission: Wall Street’s Cop on the Beat”. SEC Commissioners will testify at the hearing.

**Wealth Gap:** The House Financial Services Committee’s Subcommittee on Diversity and Inclusion will hold a hearing entitled “Examining the Racial and Gender Wealth Gap in America”.

**Global Markets Advisory Committee:** The CFTC will hold a meeting of its Global Markets Advisory Committee (GMAC). The agenda for the meeting includes presentations
on developments regarding the implementation of margin requirements for non-centrally cleared derivatives and on the European Market Infrastructure Regulation (EMIR) 2.2, including responses to the consultation by the European Securities and Markets Authority (ESMA) on various aspects of EMIR 2.2 affecting third-country central counterparties (CCPs).

September 25

**Financial Stability:** The House Financial Services Committee’s Subcommittee on Consumer Protection and Financial Institutions will hold a hearing entitled “Promoting Financial Stability: Assessing Threats to the U.S. Financial System”.

**Reverse Mortgages:** The House Financial Services Committee’s Subcommittee on Housing, Community Development, and Insurance will hold a hearing entitled “Protecting Seniors: A Review of the FHA’s Home Equity Conversion Mortgage (HECM) Program”.

September 26

**Debt Collection:** The House Financial Services Committee will hold a full Committee hearing entitled “Examining Legislation to Protect Consumers and Small Business Owners from Abusive Debt Collection Practices”.

**Real-Time Payments:** The House Financial Services Committee’s Task Force on Financial Technology will hold a hearing entitled “The Future of Real-Time Payments”.

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

**HEALTH**

**Pelosi Draft Drug Pricing Plan Leaks**

**Key Points:**
- The plan would introduce government negotiation for the 250 most costly prescription drugs.
- The proposal would also cap prices based on an international price index and restructure the Part D program.

On September 9, a draft outline of House Speaker Nancy Pelosi’s (D-CA) drug pricing plan leaked. The summary document would permit the federal government to negotiate drug prices, use an international price index to cap prices, and restructure the Medicare Part D program. Pelosi’s staff cautioned this draft is outdated.

For price negotiation, the Secretary would identify 250 drugs which represent the greatly cost to Medicare and the U.S. health system. An eligible drug would be defined as a brand name drug without at least two generic, biosimilar, or interchangeable biologic on the market. Insulin would be included. Any drug selected for negotiation would remain on the list until sufficient competition enters the market. The Secretary would directly negotiate with manufacturers to establish a maximum fair price. Manufacturers who refuse to complete negotiations will be assessed an excise tax equal to 75 percent of annual gross sales in the prior year of the selected drug. There is an opportunity for renegotiation if new information affecting price becomes available.

The negotiated price would be applied to Medicare. Medicare Advantage and Part D plans could use other tools to negotiate even lower prices. Manufacturers would also be required to offer the negotiated price group and individual plans, the VA, and TRICARE. Those payers would be able to choose whether
to accept that price. If a manufacturer overcharges Medicare or fails to offer the negotiated price to other payers, it will be subject to a civil monetary penalty equal to 10 times the difference between the price charged and the maximum fair price for the drug.

When setting the maximum fair price, there will be an upper limit based on an international price index. The ceiling will be no more than 120 percent of the volume-weighted average price of six countries: Australia, Canada, France, Germany, Japan, and the United Kingdom. The proposal would also establish an inflation rebate on all drugs in Medicare Part B and Part D. If price rises faster than inflation, the manufacturers can either lower the price or pay the entire price above inflation in a rebate back to the government. The base year would be set to 2016.

The proposal would also redesign the Medicare Part D benefit to change the incentives to encourage more efficient management of drug spending. Enrollee cost-sharing in the initial coverage limit and the coverage gap would change; enrollee cost-sharing above the out-of-pocket threshold would be capped; and the annual out-of-pocket limit to trigger catastrophic coverage would change. The financing mechanisms would also change to lower the federal reinsurance during the catastrophic phase; sunset the existing manufacturer discount program in the coverage gap; and create a new manufacturer program in the initial phase and catastrophic phase.

A copy of the draft proposal can be viewed here.

**Senators Request CMS Review DIR Fees**

**Key Point:**
- A bipartisan group of Senate Finance Committee members sent a letter to the Centers for Medicare and Medicaid Services on reviving proposed changes to direct and indirect remuneration fees.

On September 11, Chairman Chuck Grassley (R-IA), Ranking Member Ron Wyden (D-OR), and 18 Senate Finance Committee members sent a letter to the Centers for Medicare and Medicaid Services (CMS) calling on the agency to revive its proposed rule reforming direct and indirect remuneration (DIR) fees and finalize the rule for plan year 2021.

The Senators suggest CMS should redefine “negotiated price” so it includes all pharmacy price concessions at the point of sale. In addition, price concessions should be broadened to bring more clarity to the price Medicare pays and reduce costs for beneficiaries. The letter notes Part D plans and pharmacy benefit managers have been applying DIR fees through a clawback after the point of sale which puts a strain on pharmacy operations. In the original proposed rule, CMS estimated the changes could decrease beneficiary cost-sharing by $7.1 to 9.2 billion over ten years.

Read the letter here.

**Upcoming Hearings and Meetings**

**September 16**

**ACA:** The American Enterprise Institute will hold a discussion on “If we cannot live with the individual mandate, can we cover enough lives without it?”
September 19

**Pharmaceuticals:** The House Energy and Commerce Committee will hold a hearing on “Profits Over Consumers: Exposing How Pharmaceutical Companies Game the System.”

September 20

**Opioids:** The Centers for Medicare and Medicaid Services will host a public meeting on its Opioid Action Plan.

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

TRADE

U.S. to Delay Additional 5% Tariffs on China for Lists 1-3, China Reciprocates, In Advance of Expected October Talks

**Key Points:**
- President Trump announced a delay of next the China tariff increase from October 1 until October 15, and he expects China to boost its imports of U.S. farm goods.
- China has declared that it will exempt soybeans and pork, along with some other products, from its latest round of tariffs.

President Trump said on Wednesday that he was delaying plans to impose an additional 5 percent duty on $250 billion worth of Chinese goods (Lists 1-3 of the Section 301 duties on China) until October 15, two weeks later than previously scheduled. President Trump characterized the decision as a “gesture of good will” and it followed China’s announcement earlier on Wednesday that it was exempting sixteen items from the retaliatory tariffs it has imposed on American products. China’s new tariff exemptions cover imports of medicines, insecticides, pork, soybeans, and other products.

On Thursday, President Trump told reporters that U.S. tariffs that have hit the majority of Chinese imports were causing China to rethink its approach to U.S. demands on intellectual property, market access and other issues. Specifically, President Trump said, “China wants to make a deal. We’ll see what happens. We have to make the right deal for this country.”

These actions were taken by both sides in an apparent effort to reduce tensions in advance of a planned resumption of trade talks in October. It is still unclear how far China is willing to go to meet core U.S. demands that it address policies that Washington says result in the forced transfer of technology from U.S. companies that operate in China and theft of American intellectual property. A meeting of deputy-level officials is scheduled for Washington D.C. next week and is expected to address the basis on which negotiations can resume after talks broke down in early May.

USMCA Making Progress

**Key Points:**
- House leadership is optimistic that USMCA will pass in the fall.
- Democrat USMCA working group considering USTR counterproposal behind closed doors.

On Thursday, Democratic and Republican House lawmakers expressed support for the U.S.-Mexico-Canada Agreement (USMCA), and said that it was likely to pass Congress this year. House Democrats are negotiating with U.S. Trade Representative (USTR) Robert Lighthizer in four main areas: enforcement, labor, environment, and pharmaceuticals. The USTR submitted a counterproposal to the Democrats this week which is currently being deliberated on behind closed doors. Advocates of the deal have said they would like to do
substantial work in September so USMCA can be voted on this fall.

House Ways & Means Committee Chairman Richard Neal (D-MA) declined to comment on the substance of the counterproposal stating that the details of USMCA, like all trade agreements, are a national security matter. On Wednesday, USTR Lighthizer met with House Republican’s USMCA whip team, including Ways and Means Ranking Member Kevin Brady (R-TX), before the agency sent the document to Congress. House Ways and Means Trade Subcommittee Ranking Member Vern Buchanan (R-FL) told reporters Thursday, “I think -- not all -- but a lot of the Democrats want to get to yes, including the Speaker [Pelosi].” House Speaker Nancy Pelosi (D-CA) said Thursday that Democrats were waiting for language on how USMCA will be enforced.

For more information about tax 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 Leah Kim.