This Week In Congress


**Senate** – The Senate confirmed the nominations of Robert Luck and Barbara Lagoa to be Circuit Judges for the Eleventh Circuit, as well as Adrian Zuckerman to be Ambassador to Romania.

Next Week In Congress

**House** – The House will be in recess.

**Senate** – The Senate will be in recess.

TAX

**Tax Extenders Update**

*Key Points:*

- *Talks continue among the “Four Corners” on tax issues, but there has been no resolution so far.*
- *With the extension of government funding to December 20, that deadline is the next opportunity for a legislative vehicle that could carry tax extenders and technical corrections and energy items, but only if it is more than a simple continuing resolution.*

The so-called “Four Corners” continue to meet on tax items, which are the Chair and Ranking Members of the tax writing committees, as well as the respective House and Senate leaderships. To date, reports suggest there has not been a meeting of the minds on the scale or scope of any possible tax package that could be added to an end-of-the-year spending bill, or failing that vehicle a spending bill in early 2020.

Speaking broadly, in exchange for tax extenders and technical corrections to the TCJA, Democrats have pushed for some additional items for green energy and enhanced refundability of child credits, as well as enhanced EITC. Republicans have claimed the scale of those changes exceeds how much they can accept.

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As a practical matter, to date there has not yet been sufficient urgency to get negotiations down to core issues or to get either side to compromise on their approach. That said, recent reports suggest some softening of positions may be occurring and some subtle optimism might be appropriate for action later in December.

Nonetheless, any tax package will need a legislative vehicle, such as an appropriations measure to fund the government for the remainder of FY 2020. A simple continuing resolution until early 2020 is very unlikely to be sufficiently broad enough to carry a tax title with it.

House Ways and Means Committee Democrats Release the Growing Renewable Energy and Efficiency Now Act (GREEN Act)

Key Points:
- House Ways and Means Committee Democrats released draft language for the GREEN Act, which would comprehensively address climate change and promote green energy.
- The GREEN Act proposes to use the tax code to promote green energy technologies and incentivize greenhouse gas emissions.
- It is uncertain whether the Committee will act on the legislation further or whether it will be included in a larger tax extenders package.

On November 19, House Ways and Means Committee Democrats offered a discussion draft of the Growing Renewable Energy and Efficiency Now Act (GREEN Act), which is expected to serve as a comprehensive approach to addressing climate change. Specifically, the GREEN Act would use new and existing tax benefits to promote green energy technologies and incentivize the reduction of greenhouse gas emissions, and make changes to an assortment of energy breaks that are either expired or soon to be expired. In a statement, Chairman of the Ways and Means Subcommittee on Select Revenue Measures Thompson (D-CA) said he anticipates the bill to “build on existing tax incentives that promote renewable energy, increase efficiency, and create new models for technology to reduce our carbon footprint.” According to the draft’s summary, the GREEN Act would also revisit the terms of the 2015 law that extended and phased down the renewable production tax credit (PTC) and investment tax credit (ITC) through 2024.

It is unclear whether the legislation will be acted on by the Committee, but it will most likely serve as a basis for some items to be included in an end of the year or early 2020 extenders-plus package.

House Democrats Seek Action on Clean Energy from House Leadership

Key Points:
- House Democrats sent a letter to Speaker Nancy Pelosi calling on her to prioritize Investment Tax Credit legislation.
- The letter referenced the ITC’s past and potential future economic benefits and argued that the ITC would benefit both the economy and the environment.

On November 19, twenty-six Democrats sent House Speaker Nancy Pelosi (D-CA) a letter urging her to prioritize legislation that would continue the Investment Tax Credit (ITC) for solar, fuel cells, small wind, geothermal, and other clean energy technology. They highlighted that since the ITC was created in 2006, it has resulted in $140 billion in private investment and the creation of more than 200,000 jobs. To strengthen their position, they referenced research that showed continuing the ITC through 2030 would add an additional $87
billion and 113,000 jobs, benefitting both the economy and the environment.

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

FINANCIAL SERVICES

House Passes TRIA Reauthorization Bill

Key Points:
- The House passed a bill to reauthorize TRIA for seven years.
- The Senate Banking Committee favorably reported a TRIA reauthorization bill.

On November 18, the House passed the Terrorism Risk Insurance Program Reauthorization Act of 2019 (H.R. 4534) by a vote of 385-22. The bill would reauthorize the Terrorism Risk Insurance Program (TRIP) for seven years. It would also require the Government Accountability Office (GAO) to report on cyber terrorism risks, and require biennial Treasury reporting that includes disaggregated data on places of worship.

Additionally, on November 20, the Senate Banking Committee held an executive session and favorably reported its own version of the Terrorism Risk Insurance Program Reauthorization Act of 2019 (S. 2877) by voice vote. Chairman Mike Crapo (R-ID) stated that the S. 2877 mirrors the House bill in providing a seven year reauthorization and requiring reporting on cyber terrorism and places of worship. It is unclear if S. 2877 will be considered as a stand-alone bill or ultimately be included in a larger legislative package.

House Financial Services Committee Holds Hearing on Private Equity

Key Point:
- Many Democrats generally criticized private equity funds, suggesting that they profit from driving companies into bankruptcy and putting workers out of jobs, while Republicans largely defended private equity as providing needed funding and supporting 26 million American jobs.

On November 19, 2019, the House Financial Services Committee held a hearing entitled “America for Sale? An Examination of the Practices of Private Funds.” Chairwoman Maxine Waters (D-CA) observed that there are some examples of private equity (PE) firms playing a beneficial role in the U.S. economy. She noted that despite this, there are many more examples of PE firms attempting to maximize profits, destroying companies, and preying on hardworking Americans. She stated that the hearing is timely in order to further examine whether Congress should take action on this issue. She observed that a recent New York Times investigation found that ambulance company Rural Metro had slower response times under PE ownership. She testified that PE firms purchased homes following the 2008 financial crisis, and many placed high rents on their tenants. She expressed concern regarding the increasing PE ownership of hospitals and nursing homes. She noted that 10 of last 14 retail companies that declared bankruptcy were owned by PE firms. She observed the case of Toys R Us, which resulted in PE leadership walking away with substantial amounts of money while workers were laid off.

Ranking Member Patrick McHenry (R-NC) declared that those on the other side of the political aisle are trying to debate presidential politics in this hearing, since the Stop Wall Street Looting Act of 2019 (H.R. 3848) is a
companion bill to Senator Warren’s Senate bill. He noted that an analysis of the bill found that in a modest case scenario, it would reduce the American workforce by 6 million jobs. He asserted that this bill would be a disaster for American workers. He emphasized that the Committee should be focused on making markets more attractive rather than vilifying the PE industry. He stated his intent to address several misconceptions: (1) PE is not just about large companies buying out other large companies, as the industry also involves lending and allowing small businesses to buy mismanaged other business; (2) the PE business model does not entail intentional bankruptcy; (3) PE is not just about Wall Street, as the industry creates opportunities that lead to millions of jobs; and (4) many U.S. pension funds are invested in private equity. He emphasized that PE has a larger influence in the U.S. economy today due to market barriers, and that Congress needs to act to reduce those barriers.

Representative Carolyn Maloney (D-NY) stated that PE funds have caused needless suffering, especially in the retail sector. She asserted that PE firms use the bankruptcy system to slash benefits and pensions. She expressed support for H.R. 3848, which would require PE funds to share the liability for the debt that PE funds pile on companies. She emphasized that there should be more risk sharing between PE funds and portfolio companies.

Representative Bill Huizenga (R-MI) stated that most PE firms provide critical capital, and observed that the U.S. PE sector supports 26 million jobs. He asserted that profits from the PE sector fund retirement security and help businesses be more successful. He stated that 91 percent of U.S. public pension funds invest a portion of their portfolios in PE.

Upcoming Hearings and Meetings

**November 25**

**CFTC Open Meeting:** The Commodity Futures Trading Commission (CFTC) will hold an open meeting to consider the following items: (1) Final Rule: Amendments to Part 4: Registration and Compliance Requirements for Commodity Pool Operators and Commodity Trading Advisors; (2) Final Rule: Amendments to Rules 4.7, 4.13, and 4.14 (Codification of Relief for Family Offices and Relief Related to the JOBS Act); (3) Final Rule: Amendments to Rules 4.5 and 4.27 (Updating Exclusions and Adding Reporting Relief); and (4) Proposed Rule: Amendments to Swap Clearing Requirement Exemptions under Part 50

**December 4**

**State of the Securities Markets:** The Securities and Exchange Commission (SEC) will host a conference entitled “The State of Our Securities Markets.” The agenda for the event includes panels on: (1) Current Global Macroeconomic Trends Affecting Our Capital Markets; (2) Changes in and Outlook for Debt and Equity Markets; and (3) Market Concentration and Fragmentation – Causes, Effects, and Related Issues.

**Prudential Regulators:** The House Financial Services Committee will hold a hearing entitled “Oversight of Prudential Regulators: Ensuring the Safety, Soundness, Diversity, and Accountability of Depository Institutions?”

**December 5**

**Financial Regulators:** The Senate Banking Committee will hold a hearing entitled “Oversight of Financial Regulators.” The witnesses at the hearing will be Federal Reserve Vice Chairman for Supervision Randal Quarles,
Federal Deposit Insurance Corporation Chairwoman Jelena McWilliams, and National Credit Union Administration Chairman Rodney McHood.

**Financial Stability:** The House Financial Services Committee will hold a hearing entitled “Promoting Financial Stability? Reviewing the Administration’s Deregulatory Approach to Financial Stability.”

**FHA:** The House Financial Services Committee’s Subcommittee on Housing, Community Development and Insurance will hold a hearing entitled, “An Examination of the Federal Housing Administration and Its Impact on Homeownership in America.”

**December 6**

**Artificial Intelligence:** The House Financial Services Committee’s Task Force on Artificial Intelligence will hold a hearing entitled, “Robots on Wall Street: The Impact of AI on Capital Markets and Jobs in the Financial Services Industry.”

**December 10**

**SEC Oversight:** The Senate Banking Committee will hold a hearing entitled “Oversight of the Securities and Exchange Commission.” The Committee will receive testimony form SEC Chairman Jay Clayton.

**December 10-11**

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

**December 18**

**SEC Open Meeting:** The SEC will hold an open meeting to consider whether to approve the 2020 budget of the Public Company Accounting Oversight Board (PCAOB) and the related annual accounting support fee for the Board under Section 109 of the Sarbanes-Oxley Act of 2002.

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

**ENERGY & ENVIRONMENT**

**Two Committees Mark Up Pipeline Safety Legislation**

**Key Points:**
- The House Energy and Commerce Committee and the House Transportation and Infrastructure Committee both advanced pipeline safety reauthorization legislation this week.
- The legislation would reauthorize federal pipeline safety programs through 2023.
- Bipartisan negotiations on pipeline safety stalled in both committees, and the two panels approved the legislation on mostly party-line votes.

This week, two House panels voted on pipeline safety reauthorization legislation. The House Energy and Commerce Committee and the House Transportation and Infrastructure Committee began their separate markups with a common legislative proposal, although each added different amendments to the text ultimately voted on by the panels.

The “Safe, Accountable, Fair, and Environmentally Responsible (SAFER) Pipeline Act of 2019” (H.R. 5120) includes provisions that would:
- Mandate promulgation of regulations within two years of enactment to require “operators of transmission pipeline facilities to install and use automatic or remote shut-off valves...in high consequence areas.”
- Requires promulgation of regulations within two years of enactment to require pipelines in high consequence areas (HCA) to “address and repair cracks in such facilities”, and authorizes application of such requirements to areas outside of HCAs.
- Requires promulgation of regulations within two years of enactment to “prioritize methods [of pipeline assessment and testing] that provide a greater level of safety than direct assessment, including the use of internal inspection devices or pressure testing.”
- Authorizes citizen suits to compel action by PHMSA.
- Increases civil penalty limits to $20 million per violation from $200,000, and eliminates the cap on a series of related violations.
- Requires PHMSA to provide un-redacted spill response plans to Members of Congress upon request.
- Requires promulgation of regulations within one year of enactment requiring natural gas pipelines to install leak detection technology.
- Mandates, within one year of enactment, promulgation of “regulations requiring each operator of a gas pipeline facility to use the best available technology to capture gas released when performing routine operations or maintenance on the pipeline facility.”
- Requires PHMSA to issue the final rule on gas gathering lines within 90 days of enactment, and specifies that the rule shall “cover” all gathering lines in class 2, 3, and 4 locations, and lines 8-inches or larger in class 1 locations.
- Codifies the Obama Administration regulations, the “Oil and Natural Gas Sector: Emission Standards for New, Reconstructed, and Modified Sources” final rule, which would have imposed significant new requirements for the oil and gas industry, including producers and natural gas pipeline operators, to identify and limit methane emissions.

On November 19, 2019, the House Energy and Commerce Committee held a markup of 18 bills, including the “Safe, Accountable, Fair, and Environmentally Responsible (SAFER) Pipeline Act of 2019” (H.R. 3432). The Energy Subcommittee marked up a different version of the legislation, the “Safer Pipelines Act of 2019” (H.R. 3432) on June 26, 2019.

The Committee voted to favorably report the bill on a vote of 30-21.

Before completing action on the bill, the Committee voted to adopt the following amendments:

- **Inspection Methods:** Representative Marc Veasey (D-TX) offered an amendment which would require PHMSA to consider appropriate methods of assessing pipeline integrity.

- **Gas Distribution Systems Work Plans/Emergency Response Plans:** Representative Joe Kennedy (D-MA) offered an amendment which would require certification by a professional engineer before construction of a natural gas distribution system; and direct the Secretary of Transportation to revise the emergency response plans for natural gas distribution systems.

- **Community Engagement Working Group/Firearms:** Representative Bill
Flores (R-TX) offered an **amendment** which would: establish a Community Engagement Working Group to provide recommendations on pipeline safety; and establish penalties for the use of firearms to damage pipeline infrastructure.

**Criminal Penalty Standard:**
Representative Kurt Schrader (D-OR) offered an **amendment** to modify the criminal provisions of the underlying bill, changing the new standard from “knowingly or recklessly” to “knowingly or willingly.”

**National Pipeline Mapping System:**
Representative Tom O’Halleran (D-AZ) offered an **amendment** which would clarify that location information provided to the National Pipeline Mapping System (NPMS) does not include distribution pipelines.

On November 20, the House Transportation and Infrastructure Committee also marked up and voted to favorably report the legislation, adopting a series of amendments:

- **Technology Pilot Program:**
  Representative Lizzie Fletcher (D-TX) offered an **amendment** that would establish a technology pilot program for pipeline safety enhancement at PHMSA.

- **Use of Direct Assessment:**
  Representative Fletcher also offered an **amendment** that would require PHMSA to issue regulations, within two years of enactment, that would prioritize the use of other inspection methods before, in tandem, or in lieu of direct assessment.

- **Criminal Penalties for “Valve Turners”:**
  Representative Mike Bost (R-IL) offered an **amendment** that would impose criminal penalties on anyone who is “knowingly and willfully engaging in the unauthorized turning or manipulation of a valve of any pipeline facility…”

- **Criminal Penalties for Use of Firearms:**
  Representative Bost offered an **amendment** that would establish federal criminal penalties for “willfully using a firearm to puncture or damage a pipe, pump, or valve intended to be used in any pipeline facility…”

- **Criminal Penalties for Causing Defects:**
  Representative Bost offered an **amendment** that would establish criminal penalties for “knowingly and willfully causing a defect in a pipe, pump, or valve intended to be used in any pipeline facility.”

- **Voluntary Information Sharing System:**
  Representative Rodney Davis (R-IL) offered an **amendment** that would authorize PHMSA to establish a voluntary information-sharing (VIS) system.

- **Prohibition on Use of Federal Funds in Campaigns:**
  Representative Davis also offered an **amendment** that would prohibit the use of federal funds to make contributions to congressional campaigns.

**Energy and Commerce Committee Also Approves Nuclear Waste, PFAS, and Asbestos Legislation**

**Key Point:**
- The House Energy and Commerce Committee this week also voted to send to the House of Representatives: legislation banning the use of asbestos; a bill addressing high level radioactive waste currently stored at nuclear power plants around the country; and legislation to deal with Per- and polyfluoroalkyl substances (PFAS).
During its markup this week, the House Energy and Commerce Committee also voted to favorably report:

- The “Alan Reinstein Ban Asbestos Now Act of 2019” (H.R. 1603);
- The “Nuclear Waste Policy Amendments Act of 2019” (H.R. 2699); and

As described in the Committee background memorandum, the “Alan Reinstein Ban Asbestos Now Act of 2019” would “prohibit the manufacture, processing, and distribution in commerce of asbestos and asbestos-containing mixtures and articles.” The Committee favorably reported the bill by a 47-1 vote.

The Nuclear Waste Policy Amendments Act of 2019:

- Authorizes the Department of Energy (DOE) “to site, construct, and operate one or more interim storage sites that would consolidate [spent nuclear fuel] SNF from decommissioned reactors;”
- Authorizes the DOE “to undertake “infrastructure activities” intended to enable construction and operation of a repository at Yucca Mountain in the State of Nevada, including safety upgrades, site preparation, construction of a rail line, and grid connection;”
- Amends current law “to prioritize interim storage of waste from closed nuclear plants located in earthquake-prone areas and areas close to water”; and
- Establishes the Office of Spent Nuclear Fuel.

The Committee favorably reported H.R. 2699 by voice vote.

The “PFAS Action Act” would require the Environmental Protection Agency (EPA), within one year of enactment, to “designate all per- and polyfluoroalkyl substances (PFAS) as hazardous substances under section 102(a) of CERCLA (42 U.S.C. 9620).” Before voting to report the legislation, the Committee adopted an amendment in the nature of a substitute (AINS) that incorporates eleven stand-alone PFAS bills, which the Environment and Climate Change Subcommittee processed during its September 26, 2019 markup. The Committee favorably reported the bill by a 31-19 vote.

Upcoming Hearings and Events

**December 2**

**DOE Confirmation:** The Senate is scheduled to vote on the nomination of Dan Brouillette to be Secretary of Energy.

**December 19**

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

**February 19-20, 2020**

**Pipeline Safety Research and Development:** The Pipeline and Hazardous Materials Safety Administration (PHMSA) will hold a “Pipeline Safety Research and Development Forum.” The forum will allow “the public, government and industry pipeline stakeholders to develop recommendations on the technical gaps and challenges for future pipeline safety research.”

For more information about energy and environment issues you may email or call Frank Vlassak at 202-659-8201. Alex Barham and Alexandra Gale contributed to this report. Updates on energy and environment issues are also available on twitter.
HEALTH

Senate HELP Holds Confirmation Hearing on FDA Nominee

Key Points:

- The Senate Health, Education, Labor and Pensions Committee held a hearing on the nomination of Stephen M. Hahn, MD, to serve as Commissioner of the Food and Drug Administration.
- The Chairman said he hopes to have Hahn confirmed before the end of the year.

On November 20, the Senate Health, Education, Labor and Pensions Committee held a hearing to consider the nomination of Stephen M. Hahn, MD, to be Commissioner of the Food and Drug Administration (FDA). Topics discussed in the hearing included: (1) Drug Shortages; (2) Generics and Biosimilars; (3) Approving New Drugs; (4) E-Cigarettes; (5) Opioids and Pain Management; (6) Food Labeling and Guidance; (7) Working With Congress; (8) Antimicrobial Resistance; and (9) Rare Conditions.

Chairman Lamar Alexander (R-TN) stressed Hahn is well qualified and has experience navigating federal health programs and state bureaucracy as the head of MD Anderson. Ranking Member Patty Murray (D-WA) expressed concern about Hahn’s lack of government experience and public record of his position on policy issues.

In his testimony, Hahn stressed his commitment to upholding the FDA’s gold standard for protecting public health. He noted the American people trust and rely on the FDA to ensure the safety, efficacy, and security of medical products and the nation’s food supply. He also expressed his intent to work closely with Congress to ensure the laws written are enforced.

Many of the Members’ questions focused on e-cigarettes and the steps the FDA may take to regulate their use. Several members questioned if Hahn would move forward with the proposed ban on flavored e-cigarettes. Members also asked questions about increasing the speed of approval of new drugs and devices and about ensuring generic competition in the marketplace.

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

TRADE

USMCA Progress May Be Stalling

Key Points:

- House Speaker Pelosi (D-CA) said that the USMCA negotiations are still not finalized, and a vote may not happen this year.
- Many Republicans are convinced that negotiations are not happening in good faith, and Democrats are seeking to stall a vote.

House Speaker Pelosi (D-CA) on Thursday expressed doubt that a vote on the U.S.-Mexico-Canada Agreement (USMCA) could happen before the end of the year. House Ways and Means Committee Chairman Neal (D-MA) and Speaker Pelosi met with U.S. Trade Representative (USTR) Lighthizer on Thursday to discuss the deal, and afterwards Chairman Neal told reporters that the two sides had narrowed their differences. He claimed that the two sides made “a lot of progress” on the enforcement issue. The enforcement of the deal’s labor provisions, particularly as they relate to Mexico, has been a key sticking point in the talks with USTR. U.S. labor organizations and Democrats continue to express doubts that Mexico will properly
implement their recently passed labor reforms laws in line with USMCA.

Meanwhile, Republicans are becoming more and more frustrated at the Democrats for not putting the USMCA up for a vote. Senate Majority Leader McConnell (R-KY) took to the Senate floor on Thursday to castigate House Democrats for continuing to move the goal posts in the USMCA negotiations. He accused the Democrats of “stalling” the USMCA vote in favor of focusing on an impeachment inquiry. During those impeachment hearings on Thursday House Intelligence Ranking Member (and Ways and Means Committee senior Member) Nunes (R-CA) noted that Speaker Pelosi said the USMCA would not be voted on this year, and argued that Democrats would rather attack President Trump than sign legislation that would boost the U.S. economy.

It remains possible that an agreement could move through Congress in the time left for the year, though several aspects of Trade Promotion Authority would have to be skipped or expedited, such as the “mock” markup in the Ways and Means and Finance Committees before final language is sent up to Congress (and then cannot be amended). Whether that expedited process can happen while the House is considering impeachment is another matter, and could make the politics that much more complicated.

China Developments, New List 4B Deadline

**Key Points:**

- *Support for Hong Kong in the U.S. Senate angered Chinese officials, potentially making discussions more difficult.*
- *The deadline for talks may be the List 4B tariff deadline of Dec. 15, but that deadline could also be postponed.*

Despite recent progress in the U.S.-China trade negotiations, events in Hong Kong are making discussions more difficult. On Wednesday, the Senate unanimously passed legislation in support of Hong Kong pro-democracy protesters, which would empower the Trump Administration to impose sanctions on Hong Kong or Chinese officials who take actions that violate human rights. The Hong Kong Human Rights and Democracy Act (S. 1838), would require the Secretary of State to certify, at least once a year, whether Hong Kong continues to warrant special treatment under U.S. law based on a number of criteria, including the autonomy of its government decision-making related to human rights, law enforcement and extradition requests. The House subsequently passed S. 1838 by a vote of 417-1, sending it to President Trump’s desk. Despite some strong language from Beijing warning against passing the law, President Trump has expressed his support for Hong Kong and may sign the bill. Some Chinese trade specialists have pointed out that the content of the new law would not cause any immediate changes of policy toward Hong Kong, and President Trump will still have some flexibility.

Although the situation in Hong Kong is definitely a factor in the ongoing discussions it is not likely to end them altogether. On Thursday, there were reports that China had invited U.S. negotiators for face-to-face talks in Beijing. The report said that U.S. officials have indicated they would be willing to meet in person but have not committed to a date. The report also said the U.S. officials would be reluctant to travel for talks unless China makes it clear it will make commitments on intellectual property protection, forced technology transfers and agricultural purchases. A key concern for the U.S. is how many tariffs on agricultural products will be removed, while one of China’s key demands is the removal of tariffs imposed in September this year.
Today, President Trump made more news when he stated that he was “very close” to a trade deal with China, and repeated the claim that China was more interested in a deal than he was.

The current working deadline for a Stage One deal seems to be December 15, when List 4B tariffs on Chinese goods could go into effect. There is no other natural deadline for action, and it remains possible the U.S. will postpone the imposition of further tariffs scheduled to take effect on December 15, if that works in the U.S.’ favor.

Section 232 Deadline Passes, White House Considers New Investigation

Key Points:

- President Trump’s Section 232 automobile tariff authority appears to have expired.
- The White House is considering opening a new investigation, possibly under Section 301 this time.

Trade law experts are saying that President Trump waited too long to make a decision on Section 232 tariffs on imports of foreign-made cars and auto parts, and now his authority has expired. Section 232 of the Trade Expansion Act of 1962 lays out how a U.S. president can tax specific imports if the Department of Commerce deems them a threat to national security. The Trump Administration launched its Section 232 probe of foreign autos in May 2018, but took no action on Nov. 14, the deadline established by the act to take action. Trade experts argue that by not acting by the deadline, President Trump has forfeited his authority to impose the Section 232 tariffs. A recent trade court case on steel tariffs imposed under Section 232 concluded the time limits in Section 232 should be strictly adhered to and cannot be extended.

Trump Administration officials are considering whether to start a new trade investigation against the European Union (EU). Such a move would mean that European auto imports would not be subject to duties out of national security concerns, but the trading bloc would be subject to a much broader inquiry. An investigation under Section 301 of the Trade Act of 1974 would be potentially more sweeping and would subject numerous European industries, subsidies and other programs to scrutiny. President Trump has used the Section 301 provision to justify tariffs on China after an investigation by the U.S. Trade Representative’s Office found that Beijing’s policies on technology transfer and intellectual property “burden or restrict U.S. commerce.” President Trump has consistently complained that the EU imposes a 10 percent tariff on passenger cars and light trucks while the U.S. only has a 2.5 percent import duty on passenger cars. Of course, the U.S. imposes a 25 percent tariff on light trucks, which the EU has argued should be reduced or eliminated.

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 Alex Barcham.