Washington Update

December 20, 2024

This Week In Washington

Senate: The Senate confirmed several nominations and passed the FY25 National Defense Authorization Act (NDAA).

House: The House passed the Midnight Rules Relief Act (H.R.115) and failed to pass a Continuing Resolution to fund the government.

Biden Administration: On December 19, President Biden announced a new climate target for the U.S. The target includes a 61-66 percent reduction in 2035 from 2005 levels in net greenhouse gas emissions and the Administration expects methane reductions of at least 35 percent from 2005 levels in 2035.

Next Week In Washington

Senate: The Senate is expected to be in in recess. They will reconvene Friday, January 3 for the start of the 119th Congress.

House: The House is expected to be in recess. They will reconvene Friday, January 3 for the start of the 119th Congress.

Government Funding: If Congress fails to reach a deal to fund the government by 11:59 PM on December 20 the government will shut down. Should there be a government shutdown, the House and Senate will continue to convene until an agreement on a government funding package is agreed to in both chambers.

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TAX

CBO Releases Estimates for Economic and Revenue Impacts of President-elect Trump's Tariff Proposals

Key Points:

- *Following a request from Senate Democrats, CBO has released estimates for some of President-elect Trump's tariff proposals.*
- *Specifically, CBO's estimates score the revenue and economic impacts of the tariffs.*
- *According to the office, a universal 10 percent tariff would decrease deficits by $2.1 trillion and decrease GDP by 0.3 percent, with a 60 percent tariff on Chinese imports reducing GDP by the same percent and decreasing deficits by $0.7 trillion.*
- *Combined the two tariff policies would raise $2.9 trillion.*
- *It remains possible Republicans in 2025 will seek to formally, or informally, count the tariff revenues towards the needs for tax reconciliation.*

On December 19, the Congressional Budget Office (CBO) issued a response to several Democratic Senators, including Majority Leader Schumer (D-NY) and Senate Finance Chair Wyden (D-OR), regarding the potential revenue and economic impacts of various tariff policies. Specifically, CBO's letter estimates many of the impacts of President-elect Trump's tariff proposals. In the response, CBO estimates that a uniform increase in tariffs of 10 percent of the value of goods would raise revenues $2.1 trillion. In addition, it predicts that it would decrease gross domestic product (GDP) by 0.3 percent and would increase the level of the personal consumption expenditures (PCE) index by 0.6 percent by 2026. It also reported that a tariff increase of 60 percent for all goods imported from China would raise revenues by $0.7 trillion, decrease real GDP by 0.3 percent, and increase the PCE price index by approximately 1 percent. Finally, CBO indicated a combination of the uniform (across-the-board) 10 percent tariff plus an additional fifty percent tariff on China imports would produce additional $2.9 trillion in revenues.

The score estimates will likely be used by Democrats and tariff opponents going into 2025 to argue against the President-elect's tariff policies, more likely focused on countries with which we have trade agreements or trade surpluses. However, it remains likely that President-elect Trump will continue to pursue the tariff proposals outlined throughout his campaign. In late November, the President-elect announced via Truth Social that he intended to impose a 25 percent tariff on all Mexican and Canadian imports "until such time as Drugs, in particular Fentanyl, and all Illegal Aliens stop this Invasion." Likewise, he announced on the same day that he would initially impose a 10 percent tariff on all Chinese goods on top of pre-existing tariffs.

Ultimately, given the possible need for revenues in 2025 to offset costs of extending the TCJA individual and (some) business measures, Congressional Republicans may seek to formally or informally count the tariff revenues to help reduce the $3.9 trillion ($4.6T if you include interest) deficit impact of extending the TCJA using current law scoring methods.

Joint Economic Committee Hearing Includes Discussions on Cash-Based Tax Flow System

Key Points:

- *During a JEC hearing this week on President-elect Trump's tariff Proposals, witnesses and members discussed the potential of adopting a destination-based cash flow tax.*
- *Specifically, Representative Schweikert (R-AZ) and Representative Beyer (D-VA) inquired into how a consumption-based tax system would impact the nation's "tax arbitrage" and tax collection.*

During a Joint Economic Committee hearing this week centered on President-elect Trump's tariff proposals, members discussed the potential implementation of a destination-based cash flow tax (DBCFT). Specifically, Vice Chairman Schweikert (R-AZ) inquired into how a DBCFT could benefit the "tax arbitrage" the nation faces globally. In response, a senior economist from the Tax Foundation stated that a consumption taxation system, which includes the option of a DBCFT, could be adopted to address the concern. In addition, she asserted that the nation's current location- and income-based tax system has served to impede its manufacturing industry, investments, and productivity. The hearing also included comments from Representative Beyer (D-VA), who asked about the potential regressive nature of a cash flow taxation system. In response, the economist stated a DBCFT could include rebates to address such concerns, citing Senator Cardin's (D-MD) Progressive Consumption Tax Act (116th Congress). In addition, the economist asserted that the nature of tracking income makes it harder to enforce and administer an income-based tax system than a consumption-based tax system.

The hearing also included comments about the potential revenue-raising capabilities of President-elect Trump's tariff proposals. (See article above for a more complete discussion of that issue).

House Ways and Means Committee Announces New Members, One Additional Seat for Each Party

Key Points:

- *House Majority and Minority leadership have announced new Committee ratios going into the 119th Congress.*
- *The House Ways and Means Committee will gain a member for both Republicans and Democrats, shifting the balance to 26 and 19 members, respectively.*

On December 13, the House Majority and Minority reached an agreement on Committee members ratios and started to fill occupancies. The two groups agreed to expand the House Ways and Means Committee by one seat for each party, leaving the total roster at a balance of 26 to 19 going into the 119th Congress. New Republican members that are joining the committee include Representative Yakym (R-IN), Representative Max Miller (R-OH), Representative Bean (R-FL), and Representative Moran (R-TX). Within a press release, House Ways and Means Chairman Jason Smith (R-MO) stated that the new members would help the Committee pursue its topline priorities in the 119th Congress, including extending expiring provisions of the TCJA and using trade laws to "help American farmers and workers while finding ways to expand access to healthcare in rural America and for our seniors." House Minority Leader Jeffries (D-NY) has indicated to his caucus that the three openings the Democrats hold would be filled by former members of the Committee who currently serve in Congress. As such, Representative Suozzi (D-NY), Representative Plaskett (D-VI), and Representative Boyle (D-PA) are expected to join the Committee.

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

FINANCIAL SERVICES

SEC Modernizes Submission of Certain Forms, Filings

Key Point:

- *Compliance dates for the amendments vary but range from 60 days after publication in the Federal Register to on or after June 30, 2028.*

On December 16, the Securities and Exchange Commission (SEC) adopted amendments to require the electronic filing, submission, or posting of certain forms, filings, and other submissions participants make with the SEC. The amendments will require filings and submissions electronically using the SEC's Electronic Data Gathering, Analysis, and Retrieval (EDGAR) system, in structured data format, or posting them online.

SEC Chair Gary Gensler stated, "Today's amendments build on more than 20 years of Commission actions to modernize filing and recordkeeping requirements. I'm pleased that the Commission has taken the next step towards updating our requirements for the digital age."

CFTC Approves Final Rule on Safeguarding of Customer Funds

Key Points:

- *The final rule amends CFTC regulations governing safeguarding and investment of customer funds by FCMs and DCOs.*
- *The compliance date for Segregation Investment Detail Reports (SIDR) and risk disclosure statement is March 31, 2025.*

On December 17, the Commodity Futures Trading Commission (CFTC) approved a final rule amending regulations on how "futures commission merchants and derivatives clearing organizations safeguard and invest customer funds held for the benefit of customers engaging in futures, foreign futures, and cleared swaps transactions." The amendments revise the list of permitted investments in CFTC Regulation 1.25 and eliminate the CFTC requirement that a futures commission merchant (FCM) "deposit customer funds with depositories that provide the CFTC with read-only electronic access to such accounts."

Senate Budget Committee Holds Hearing on Climate and Insurance

Key Points:

- *Democratic Members expressed concerns about the ability of individuals and families to recover from natural disasters and the ability to obtain new or renewed insurance plans in areas which experience natural disasters.*
- *Ranking Member Chuck Grassley (R-IA) inquired if fraud and litigation drove the cost of insurance prices rather than climate and weather.*

On December 18, the Senate Budget Committee held a hearing entitled, "Next to Fall: The Climate-Driven Insurance Crisis is Here – And Getting Worse." Chairman Sheldon Whitehouse (D-RI) said insurance affordability and availability play a role in the economic system. He noted the Committee's investigation into homeowners' insurance market conditions across the country and found spikes in non-renewal rates are often a sign of market destabilization. He said higher nonrenewal rates are correlated with higher premium rates and the Committee's report provides new information that is based on national and county-level nonrenewal data. He argued climate change drives increasing nonrenewal rates. He explained that counties exposed to climate-related risks such as wildfires or hurricanes, such as those in Louisiana and Florida, see the highest nonrenewal rates. He argued climate change-driven extreme weather events have exaggerated the insurance crisis.

Ranking Member Chuck Grassley (R-IA) argued the majority continues to ignore the nonpartisan Congressional Budget Office's (CBO) analysis finding the negative economic effects of climate change are dwarfed by the ballooning national debt. He stated the Inflation Reduction Act (IRA) was less about fighting inflation and more about enacting a Green New Deal. He added the CBO confirmed the bill increased inflation instead of reducing it. He said President Biden's expansive executive orders flooded the economy with trillions of additional deficit spending. He noted Sweden's fiscally sustainable policies have unanimous support across party lines and enjoy public support, adding their fiscal framework established an annual deficit or surplus target. He argued the committee needs to prioritize fiscal sustainability.

CFPB Takes Action on Credit Card Rewards

Key Points:

- *The circular, research, and new tool builds on the CFPB's previous actions including a joint public hearing with the U.S. Department of Transportation.*
- *The Explore Credit Cards tool is the first of its kind focused on enabling consumers to compare more than 500 credit cards.*

On December 18, the Consumer Financial Protection Bureau (CFPB) announced actions intended to protect consumers from certain credit card practices. The circular released by the CFPB warns companies they may violate federal law if they devalue earned rewards, hide the conditions for earning or keeping rewards, or fail to deliver promised benefits. The circular comes alongside new research that focuses on the credit card market and consumer complaints on sales tactics and inability to redeem promotions.

CFPB Director Rohit Chopra stated, "Large credit card issuers too often play a shell game to lure people into high-cost cards, boosting their own profits while denying consumers the rewards they've earned. When credit card issuers promise cashback bonuses or free round-trip airfares, they should actually deliver them. The CFPB is taking aim at bait-and-switch tactics and promoting more competition in credit card markets to protect consumers and give people more choice."

Treasury Releases Report on the Uses, Opportunities, and Risks of Artificial Intelligence in Financial Services

Key Points:

- *The 2024 RFI from Treasury received 103 comments from a variety of stakeholders.*
- *This report builds on Treasury's previous March 2024 report and other work on AI related risks and opportunities within the financial services sector.*

On December 19, the U.S. Department of the Treasury released a report on the potential for artificial intelligence (AI) in financial services. The report follows Treasury's 2024 request for information (RFI) on the uses, opportunities, and risk of AI in financial services. The report includes recommendations for Treasury, government agencies, and the financial services sector. The recommendations include; continuing international and domestic collaboration, further analysis and stakeholder engagement to identify gaps, continued coordination from financial regulators to identify potential enhancements to risk management frameworks, further facilitation of financial services specific AI information sharing from the financial services sector and government agencies, and prioritization of the review of AI use cases for compliance with existing laws and regulations by financial firms.

Federal Reserve and FDIC Release Annual Asset-Size Thresholds

Key Points:

- *The thresholds go into effect on January 1, 2025, and will remain in effect until December 31, 2025.*
- *The thresholds are as of December 31 of either of the prior two calendar years.*

On December 19, the Federal Reserve Board and the Federal Deposit Insurance Corporation (FDIC) announced updated asset-size thresholds for "small bank" and "intermediate small bank" under the Community Reinvestment Act (CRA). Financial institutions are evaluated differently under CRA examination procedures based on their asset-size classification. The asset-size threshold for a "small bank" is an institution that has assets of less than $1.609 billion. The asset-size threshold for an "intermediate small bank" is an institution with assets of at least $402 million and less than $1.609 billion.

Federal Reserve Board Announces Appointments

Key Point:

- *Four members were reappointed to serve on IPAC for the Federal Reserve.*

On December 19, the Federal Reserve Board announced three new members to its Insurance Policy Advisory Committee (IPAC). IPAC provides recommendations and advice on domestic and international insurance issues to the larger Federal Reserve Board. Including its three new members, seven individuals with industry expertise and professional backgrounds in the insurance sector serve on IPAC.

IPAC's new members include:

- Jonathan Kelly, Partner, Sidley Austin
- Paul Kim, Head of Commercial Risk Strategy and Product Development, Aon
- Sam Ramos, Chief Legal Officer, General Counsel and Secretary, Global Atlantic Financial Company

For more information about financial services issues you may email Joel Oswald or Mahlet Makonnen. Ashley Kinder contributed to this section.

ENERGY & ENVIRONMENT

Department of Energy Issues Report on LNG Exports

Key Points:

- *On December 17, the Department of Energy released its report on liquefied natural gas (LNG) exports to non-Free Trade Agreement (FTA) countries.*
- *On January 26, the Biden Administration announced a "pause" on authorizations for U.S. exports to non-FTA nations. The Administration said the pause would allow for a review of LNG export impacts.*

On Tuesday, the Department of Energy's Office of Fossil Energy and Carbon Management released a report titled "Energy, Economic, and Environmental Assessment of U.S. LNG Exports". The report is a product of a review launched by the Biden Administration when it announced "a temporary pause on pending decisions on exports of…LNG…to non-FTA countries" on January 26, 2024.

Secretary of Energy Jennifer Granholm, in a [statement](), highlighted the report's largely adverse findings regarding exports:

- "First, the pace of growth of U.S. natural gas exports in recent years is truly astounding and many analysts say continued growth on this trajectory will quickly outpace global demand."
- "The study…finds that unfettered exports of LNG would increase wholesale domestic natural gas prices by over 30%. Unconstrained exports of LNG would increase costs for the average American household by well over $100 more per year by 2050…DOE analysis exposes a triple-cost increase to U.S. consumers from increasing LNG exports – the increasing domestic price of the natural gas itself, increases in electricity prices (natural gas being a key input in many U.S. power markets), and the increased costs for consumers from the pass-through of higher costs to U.S. manufacturers."
- "Third, LNG facilities tend to be concentrated in communities that are being asked to shoulder the additional burden of pollution from increased natural gas production and liquefaction. This comes on top of existing environmental burdens from refining, petrochemical, and other industries already concentrated near these communities."
- "Fourth, the climate impact of ever greater exports of LNG merits a close and rigorous focus, especially in a world that needs to quickly reduce greenhouse gas emissions substantially across the board to meet our global commitment of limiting warming to 1.5 C."
- "Fifth, any sound and durable approach for considering additional authorizations should consider where those LNG exports are headed, and whether targeted guardrails may be utilized to protect the public interest."

The report is now subject to a 60-day public comment period through February 18, 2025. President-Elect Trump has vowed to quickly resume export authorizations after he takes office. However, the report will likely be used by opponents in legal challenges to LNG export approvals.

Republicans criticized the report. In a [statement](), Senate Energy and Natural Resources Committee Ranking Member John Barrasso (R-WY) declared: "Studies have repeatedly shown that American liquefied natural gas exports benefit our economy, our environment, our security and the security of our allies. Nothing in a biased study from a bitter administration on its way out the door can change that."

Upcoming Hearings and Events

January 16

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

For more information about energy and environment issues you may email or call Frank Vlossak at 202-659-8201.

HEALTH

Department of Justice Sues CVS for Unlawfully Prescribing Controlled Substances

Key Points:

- *The Department of Justice filed a lawsuit against CVS alleging their practices contribute to the opioid crisis.*
- *The lawsuit further alleged CVS did not staff their pharmacists adequately and filled prescriptions without reason.*

This week the Department of Justice (DOJ) sued CVS alleging their practices allowed unlawful controlled substance prescriptions while seeking reimbursements from federal programs.

In the lawsuit, the DOJ accused CVS of filling prescriptions that lacked medical purpose since October 17, 2013. Some of the prescriptions were excessive amounts as well as combining opioids, benzodiazepine, and a muscle relaxant together. The DOJ alleged CVS pressured its pharmacists to fill prescriptions quickly without assessing the need adequately. They argued CVS endangered patients and fueled the opioid crisis.

A CVS spokesperson disagreed with the allegations and in a statement said, "We will defend ourselves vigorously against this misguided federal lawsuit, which follows on the heels of years of litigation over these issues by state and local governments—claims that already have been largely resolved by a global agreement with the participating state Attorneys General."

Medicare Advisory Panel Considers Reducing Payments for Nursing Homes

Key Point:

- *The Medicare Advisory Commission proposed to Congress reducing nursing home payments by 3 percent in 2026.*

The Medicare Payment Advisory Commission is considering recommendations to Congress to reduce costs for nursing homes and inpatient rehabilitation facilities. While prices will decrease for these facilities, payments for hospitals, physicians, and clinicians will increase in 2026.

On December 12, the Commission discussed a proposed draft to Congress and recommended trimming nursing home costs by three percent. Due to Medicare's high profit margins, it has been used to decrease payment rates for nursing homes which accounts for the three percent decrease.

Other proposals from the commission include improving the financial security of safety-net hospitals for disproportionate share hospitals and increasing Medicare payment rates for physicians.

While the recommendations are nonbinding, Congress relies on the panel to make funding decisions. The recommendations will not be formally voted on until January 2025 and once finalized the decisions for 2026 will be included in a March 2025 report from the commission.

For more information about health care issues you may email Laura Simmons. Aubrie Chastain contributed to this section.

CYBERSECURITY, PRIVACY, AND ARTIFICIAL INTELLIGENCE

CISA and ONCD Publish Guide to Strengthen Cybersecurity of Grant-Funded Infrastructure Projects

Key Points:

- *This week, CISA and ONCD released guidance for grant-making agencies and grant recipients to institute greater cybersecurity protections and best practices within infrastructure projects. The document includes a variety of tools and resources for grant-funded entities to easily incorporate into their programs.*

On December 17th, the Cybersecurity and Infrastructure Security Agency (CISA) alongside the Office of the National Cyber Director (ONCD) released the "Playbook for Strengthening Cybersecurity in Federal Grant Programs for Critical Infrastructure" guidance for grant-making agencies to institute greater cybersecurity into their programs. The guidance also includes tools and resources for grant recipients to enhance cyber resilience within grant-funded infrastructure projects.

Specifically, the guidance document was targeted at federal grant program managers, critical infrastructure owners and operators, state and local entities who subaward grant funds, and grant recipients. The guidance includes the following resources:

- Recommended cybersecurity actions and best practices for federal grant agencies, recipients, and subrecipients to incorporate into the grant management lifecycle;
- model language for cybersecurity requirements for inclusion in Notices of Funding Opportunity (NOFOs) and grant award terms and conditions;
- templates and tools for developing a "Project Cyber Risk Assessment" and a "Project Cybersecurity Plan"; and
- resources detailing cybersecurity best practices that program managers and recipients can use to create, clarify, and communicate programmatic cybersecurity requirements.

Notably, CISA and ONCD underscore that the guidance is only advisory – it does not replace existing federal cybersecurity rules, nor does it create new legal requirements or an additional compliance burden for grant recipients. Cyber officials developed the document as a flexible, low-burden mechanism for grant administrators and recipients to learn and foster greater cyber resilience in the nation's critical infrastructure.

In a public statement released alongside the document, National Cyber Director Harry Coker Jr. said "ONCD, along with our partners at CISA, continues to advocate for cybersecurity to be incorporated into the foundation and design of the Nation's critical infrastructure… We need infrastructure projects to be shovel ready and cyber ready."

Congress Passes FY25 National Defense Authorization Act with Key Cybersecurity Provisions

Key Points:

- *This week, Congress passed its $895.2 billion FY25 NDAA, the U.S. government's annual defense policy and authorizations bill. The bill included several cybersecurity provisions, as well as funding for the FCC's 'Rip and Replace' program, all described below.*

- *On December 11th, the House passed the bill in a bipartisan manner by a vote of 281-140, with 200 Republicans and 81 Democrats voting in support. On December 18th, the Senate approved the bill by a bipartisan vote of 85-14. The bill now awaits the president's signature.*

On December 18th, Congress passed the $895.2 billion FY25 National Defense Authorization Act (NDAA) (H.R.5009), the U.S. government's annual defense policy and authorizations bill. The bill text and accompanying joint explanatory statement include provisions derived from both the House and Senate versions of the legislation.

Included in the bill were a variety of cybersecurity and telecommunications provisions, with descriptions pulled from the joint explanatory statement listed below:

- ***Sec. 1501* - *Modification of prohibition on purchase of cyber data products or services other than through the program management office for Department of Defense-wide procurement of cyber data products and services***
    - The Senate committee-reported bill contained a provision (sec. 1625) that would amend section 1521(c) of the National Defense Authorization Act for Fiscal Year 2022 (Public Law 11781) by adding an additional exemption to the prohibition of this section.
- ***Sec. 1504* - *Support for cyber threat tabletop exercise program with the defense industrial base***
    - The Senate committee-reported bill contained a provision (sec. 1604) that would require the Assistant Secretary of Defense for Cyber Policy, in consultation and coordination with the Commander of United States Cyber Command, the Commander of United States Northern Command, the Commander of the Army Interagency Training and Education Center, and such other individuals as the Assistant Secretary considers appropriate, to develop tabletop exercise packages oriented towards training stakeholders to prepare the homeland for adversary cyber-attacks precipitating or during a time of conflict or war.
- ***Sec. 1514* - *Management and cybersecurity of multi-cloud environments***
    - The Senate committee-reported bill contained a provision (sec. 1612) that would require the Secretary of Defense acting through the Chief Information Officer of the Department of Defense, to develop a strategy for the

management and cybersecurity of the Joint Warfighting Cloud Capability and other multi-cloud environments, not later than 180 days after the date of the enactment of this Act.

- ***Sec. 1515* - Protective measures for mobile devices within the Department of Defense**
    - The House bill contained a provision (sec. 1511) that would require the Secretary of Defense to carry out a detailed evaluation of the cybersecurity products and services for mobile devices to identify products and services that may improve the cybersecurity of mobile devices used by the Department of Defense, including mitigating the risk to the Department of Defense from cyber attacks against mobile devices.
- ***Sec. 1544* - Independent assessment of cyber organizational models**
    - The House bill contained a provision (sec. 1536) that would require the Secretary of Defense to enter into an agreement with the National Academies of Sciences, Engineering, and Medicine to conduct an evaluation regarding the advisability of either establishing a separate Armed Force in the Department of Defense dedicated to operations in the cyber domain or refining and further evolving the current organizational approach for United States Cyber Command.
- ***Sec. 1612* - Cyber intelligence capability**
    - The Senate committee-reported bill contained a provision (sec. 1603) that would require the Secretary of Defense to establish a dedicated cyber intelligence capability to support the requirements of United States Cyber Command, the other combatant commands, the military departments, defense agencies, the Joint Staff, and the Office of the Secretary of Defense for foundational, scientific and technical, and all-source intelligence on cyber technology development, capabilities, concepts of operation, operations, and plans and intentions of cyber threat actors.
- ***Secs. 5401 – 5405 – 'Rip and Replace' Funding (Spectrum and Secure Technology and Innovation Act of 2024)***
    - The agreement contains a provision that would initiate bidding processes for certain licenses and increase the limitation on expenditures to $4.98 billion under the Secure and Trusted Communications Networks Act of 2019.

CISA Seeks Public Comment on its Draft National Cyber Incident Response Plan

Key Points:

- *This week, CISA released its draft National Cyber Incident Response Plan for public comment, which includes updates mandated in the 2023 National Cybersecurity Strategy. Public comments for the updated NCIRP draft are due by January 15th, 2025.*

On December 16th, the Cybersecurity and Infrastructure Security Agency (CISA) released its draft National Cyber Incident Response Plan (NCIRP) for a month-long public comment period on the Federal Register. The document details how both the public and private sectors should respond to significant cyber incidents. This week's update, called for in the Biden Administration's 2023 National Cybersecurity Strategy, was developed through extensive collaboration with government and industry partners "to provide an agile, actionable updated framework that ensures coherent coordination to match the pace of [U.S.] adversaries" (CISA Press Release).

The NCIRP lays out an organizational structure for national cyber incident response along four lines of effort: asset response, threat response, intelligence support, and affected entity response. The document assigns coordinating responsibilities to various federal agencies – CISA is tasked with asset response; the Office of the Director of National Intelligence (ODNI) is tapped to manage intelligence support; federal law enforcement agencies will handle threat response; and affected entity response will fall to the impacted agency or entity.

Specifically, CISA includes the following updates in its NCIRP draft:

- "A defined path for non-federal stakeholders to participate in coordination of cyber incident response;
- improved usability by streamlining content and aligning to an operational lifecycle;
- relevant legal and policy changes impacting agency roles and responsibilities; and
- a predictable cycle for future updates of the NCIRP."

In a public statement released alongside the draft, CISA Director Jen Easterly said "Today's increasingly complex threat environment demands that we have a seamless, agile, and effective incident response framework. This draft NCIRP Update leverages the lessons learned over the past several years to achieve a deeper unity of effort between the government and the private sector. We encourage public comment and feedback to help us ensure its maximum effectiveness."

Public comments for the updated NCIRP draft are due by January 15th, 2025 and can be posted on the Federal Register.

CISA Releases Directive for Federal Agencies to Secure Cloud Environments

Key Points:

- *This week, CISA issued Binding Operational Directive 25-01, "Implementing Secure Practices for Cloud Services," requiring federal agencies gain compliance with the Secure Cloud Business Applications (SCuBA) project to secure cloud environments and federal information systems.*
- *Agencies are required to implement all SCuBA assessment tools for in-scope cloud instances by April 25, 2025.*

On December 17th, the Cybersecurity and Infrastructure Security Agency (CISA) directed federal civilian agencies to implement a new set of cybersecurity requirements to secure cloud environments and federal information systems. Binding Operational Directive (BOD) 25-01, "Implementing Secure Practices for Cloud Services," complements existing federal resources for cloud security, "including the Federal Risk and Authorization Management Program (FedRAMP), relevant NIST guidance, and the CISA Trusted Internet Connections (TIC) 3.0 Cloud Use Case" (CISA Directive).

The Directive requires agencies comply with CISA's Secure Cloud Business Applications (SCuBA) project, which provides consistent and manageable cloud security configurations and assessment tools to improve security for federal agency assets hosted in cloud environments. Specifically, the new directive requires agencies to:

- Identify and report all cloud tenants within the scope of the directive by February 21, 2025;
- deploy all SCuBA assessment tools for such tenants by April 25, 2025, and begin continuous reporting on the requirements in the Directive;
- implement all mandatory SCuBA Secure Configuration Baselines policies (found on the Directive's Required Configurations website) by June 20, 2025; and
- implement all future updates to mandatory SCuBA policies and begin monitoring new cloud tenants prior to granting an Authorization to Operate.

In a statement released alongside the directive, CISA Director Jen Easterly said "Malicious threat actors are increasingly targeting cloud environments and evolving their tactics to gain initial cloud access. The actions required by agencies in this Directive are an important step in reducing risk to the federal civilian enterprise. While this Directive only applies to federal civilian agencies, the threat to cloud environments extends to every sector. We urge all organizations to adopt this guidance."

There are no upcoming relevant hearings and meetings.

For more information about cybersecurity issues you may email Mahlet Makonnen or Frank Vlossak. Gray Eisler contributed to this section.

TRADE

Note: See Tax Section for tariff-related story on CBO estimates of various revenue and economic impacts of various potential Trump Administration tariff proposals.

Continuing Resolution Containing Outbound Investment Provision Pulled After Opposition – Slimmer Alternative CR Without Outbound Voted Down on House Floor

Key Points:
- *House Leadership introduced a bill to fund the government which included a revised outbound investment policy and Haiti trade measures.*
- *The legislation included a revised provision to strengthen outbound investment restrictions related to AI and other emerging technologies.*
- *Industry representatives and members of Congress also sought to include provisions reauthorizing AGOA and GSP in the bill to no avail.*
- *The bill was pulled and replaced with a slimmer CR that did not include the outbound investment and Haiti provisions.*

On December 19, the House voted against a continuing resolution (CR) (H.R. 10515) that would fund the federal government through mid-March. The CR comes after a former resolution (H.R. 10445) was introduced by Republicans and subsequently withdrawn after facing intra-party pushback. Notably, the original resolution included provisions to restrict outbound investment into China. Specifically, the bill would have expanded on Treasury's rules related to outbound investments in artificial intelligence and other emerging technologies that present national security concerns. In addition, the bill sought to extend the Haitian Hemispheric Opportunity through Partnership Encouragement and the Haiti Economic Lift Program, a trade-preference program, through 2030.

The second CR, which had such provisions removed, failed the House by a vote of 235 nays to 174 yeas, with all but 3 Democrats and 38 Republicans voting against it. 1 Democrat voted as present, 2 voted for the bill, and 20 members of the chamber did not vote at all. At present, it seems unlikely that a path forward remains for the outbound investment provisions within the first CR through the end of the 118th Congress.

Prior to the first CR's introduction, industry representatives had pushed for the legislation to include a renewal of the African Growth and Opportunity Act (AGOA). The inclusion program, which is set to expire in September 2025, was reportedly supported by House Ways and Means Chairman Jason Smith (R-MO) and some Committee Democrats. The week before the bill's consideration, Representative John James (R-MI) introduced the AGOA Extension and Enhancement Act of 2024 (H.R. 10366) to extend the program through September 2027 and authorize the president to either sustain or partly terminate benefits if a member nation is found out of compliance with the eligibility requirements. Senate Finance Ranking Member Crapo (R-ID) also pushed for the inclusion of a provision renewing the Generalized System of Preferences, although the proposal faced pushback from Democrats who sought to tie the program to the renewal of the Trade Adjustment Assistance program.

Debate in the Congress continues on the funding, but it appears unlikely the trade and outbound measures will be reinserted in this round of legislation. That said, legislation on outbound investment is likely to be prioritized by Congress going into the 119th Congress.

Joint Economic Committee Holds Hearing on President-elect Trump's Tariff Plans

Key Points:

- *The JEC recently held a hearing to discuss the impacts of President-elect Trump's tariff proposals.*
- *In particular, Committee Democrats argued across-the-board tariffs would lead to higher consumer costs and retaliatory tariffs that hinder key domestic sectors.*
- *In contrast, Committee Republicans argued that tariffs could be used to rebuild domestic industries and fund the extension of expiring TCJA provisions.*

On December 18, the Joint Economic Subcommittee on Economic Policy held a hearing entitled, "Trade Wars and Higher Costs: The Case Against Trump's Tariffs." The hearing included discussions on President-elect Trump's proposed 10 to 20 percent universal tariff rate on all goods entering the country. In addition, it included talks over the President-elect's campaign proposal to enact a 60 percent tariff on all Chinese imports entering the U.S. Notably, the tariff would not stack with the 10 to 20 percent universal tariff rate for all other countries. Committee members also discussed President-elect Trump's plan to enact a 25 percent tariff rate for all imports entering the U.S. market from Canada and Mexico.

Throughout the hearing Committee Democrats opposed the President-elect's proposed tariffs, arguing that universal tariffs tend to result in higher costs for American consumers and retaliatory tariffs that hinder U.S. agriculture and other sectors. In addition, Democrats raised concerns about the impacts that tariffs could have on U.S. exporters and the nation's global trade relations. In contrast, Republicans argued that tariffs could be utilized to reduce the federal deficit and build up domestic industries, specifically citing the growth of the manufacturing industry during and after the imposition of tariffs enacted within the first Trump Administration. In addition, some Republicans noted that President-elect Trump's tariff proposals could raise revenue to fund the extension of expiring provisions within the Tax Cuts and Jobs Act (P.L. 115-97), among other tax reforms. The hearing also included comments from Committee Democrats about the $800 de minimis threshold, with Representative Beyer (D-VA) discussing altering the threshold and Representative Schneider (D-IL) expressing concern over de minimis' impact on domestic retail industries.

House Select Committee on the CCP Members Introduce Legislation Addressing Illicit Synthetic Drug Trafficking

Key Points:

- *The House Select Committee on the CCP's Fentanyl Policy Working Group has introduced three bills to hinder the flow of fentanyl into the U.S. from China.*
- *The legislative proposals include provisions to enhance sanction authorities related to Chinese vessels and ports, create a task force on synthetic narcotic smuggling, and introduce compliance requirements for PRC shippers and exporters.*

On December 17, House Select Committee on the CCP Chairman Moolenaar (R-MI) and Ranking Member Krishnamoorthi (D-IL) announced the introduction of three bills from the Committee's Fentanyl Policy Working Group. According to a press release, all three bills seek to "hold China responsible for the fentanyl crisis" by "strengthening sanctions on China-based and CCP-backed entities engaged in drug trafficking … and leveraging fines against PRC shippers that fail to implement appropriate transparency and related safeguards that hinder drug trafficking." The first bill, dubbed the Joint Task Force to Counter Illicit Synthetic Narcotics Act of 2024 (H.R. 10459), would create a task force comprised of multiple federal agencies to address synthetic narcotics trafficking. In addition, the CCP Fentanyl Sanctions Act (H.R. 10447) would codify sanction authorities related to actors involved in fentanyl trafficking. The legislation would also expand existing sanction powers used to target Chinese vessels or ports that facilitate the trafficking of illicit synthetic narcotics. Further, it would give the government the power to "restrict foreign financial institution correspondent accounts and payable-through accounts" if the President decides they "knowingly facilitated transactions on behalf of individuals engaging in synthetic narcotics trafficking." Rounding out the package of bills, the International Protection from PRC Fentanyl and Other Synthetic Opioids Act (H.R. 10451) would impose civil penalties for PRC shippers that fail to implement safeguards against drug trafficking.

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