

## Washington Update

November 18, 2022

### This Week In Congress

**Senate** – The Senate passed the Medical Marijuana and Cannabidiol Research Expansion Act ([H.R. 8454](#)), the Federal charter to the National American Indian Veterans, Inc ([S. 1725](#)), the VAWA fix (S. 7), the PRECIP Act ([H.R. 1437](#)), the Safe Connections Act ([H.R. 7132](#)), and the First Responder Fair RETIRE Act ([H.R. 521](#)) and confirmed nominations.

**House** – The House passed the PAST Act ([H.R. 5441](#)), the Speak Out Act ([S. 4524](#)), the Senator Johnny Isakson VA Regional Office Act ([S. 4359](#)), the Department of Veterans Affairs Information Technology Reform Act ([H.R. 2250](#)), the Lymphedema Treatment Act ([H.R. 3630](#)), and To designate the medical center of the Department of Veterans Affairs in metropolitan Atlanta, Georgia, as the “Joseph Maxwell Cleland Atlanta Department of Veterans Affairs Medical Center” ([S. 3369](#)).

### Next Week In Congress

**Senate** – The Senate is in recess and will meet in pro forma sessions on November 22 and November 25. The chamber will reconvene on Monday, November 28 at 3:00 pm and will resume consideration of the Respect for Marriage Act ([H.R. 8404](#)).

**House** – The House is in recess and will reconvene on Tuesday, November 29.

## **CONGRESSIONAL LEADERSHIP**

### *Key points:*

- *Republicans held leadership elections for the 118<sup>th</sup> Congress this week.*
- *House Democrats are expected to hold formal party leadership elections November 30.*
- *Current House Speaker Nancy Pelosi (D-CA) and House Majority Leader Steny Hoyer (D-MD) announced Thursday they will be stepping down.*

Democrats retained control of the Senate in this election cycle and will have their leadership election on November 30. It is likely that Senator Chuck Schumer (D-NY) will remain Senate Majority Leader and Senator Dick Durbin (D-IL) will continue to serve as Majority Whip. Republicans held their leadership elections this week; Senator Mitch McConnell (R-KY) will remain Minority Leader of the upper chamber and Senator John Thune (R-SD) will keep his position as Minority Whip for the Republicans.

In the House, the balance of power has officially been determined and Republicans will take back the chamber. Representative Kevin McCarthy (R-CA) will be House Speaker, Representative Steve Scalise (R-LA) will become Republican leader, Representative Tom Emmer (R-MN) will serve as the Majority Whip, and Representative Kevin Hern (R-OK) will lead the Republican Study Committee (RSC).

Current House Speaker Nancy Pelosi (D-CA) announced Thursday that she will be stepping down from her leadership post in the 118<sup>th</sup> Congress, as did current House Majority Leader, Representative Steny Hoyer (D-MD). Sources indicate that Majority Whip Jim Clyburn (D-SC) intends to remain in the Democrat leadership ranks, running for the assistant leader position, which will be the fourth highest ranking slot for the Democrats behind the number three Caucus Chair position.

On Friday, three Representatives announced bids to replace the outgoing leadership in the 118<sup>th</sup> Congress: Representative Hakeem Jeffries (D-NY) for Minority Leader, Representative Katherine Clark (D-MA) for Minority Whip, and Representative Pete Aguilar (D-CA) for Caucus Chairman. Jeffries, the current Chairman of the House Democratic Caucus, issued a [letter](#) to his colleagues asking for their support. In the letter, he expressed interest in working with Republicans to find common ground but added that if “the Republican Conference continues to major in demagoguery and minor in disinformation, their bankruptcy of ideas must be aggressively exposed on an ongoing basis.”

Jeffries has already received an endorsement from outgoing House Majority Leader Hoyer and Representative Joyce Beatty (D-OH), who leads the Congressional Black Caucus and announced that the caucus will likely vote unanimously for its fellow caucus member even if a challenger arises. Additionally, current Majority Whip Clyburn stated that he looks forward to assisting the “new generation of Democratic Leaders which [he] hope[s] to be Hakeem Jeffries, Katherine Clark, and Pete Aguilar.”

*Lizzy Dawahare and Tom Brennan contributed to this section.*

## **TAX**

### **Senate Finance Chair Wyden Expresses Support for Lame Duck Retirement Package**

*Key Point:*

- *Senate Finance Committee Chairman Ron Wyden (D-OR) predicted SECURE 2.0 ([S. 4353](#)) would pass before the end of the year as part of the year-end budget deal.*

Chairman Wyden discussed the possibility of the SECURE 2.0 retirement package passing by the end of the year on a press call. He noted, “We’re going to make it part of the package that moves before the end of the year – we’re deep in the discussions. All of the negotiators are committed to getting this done before we wrap up.” Chairman Wyden expects that the retirement package would be included in a year-end budget deal, which could occur at the latest on December 16. Other tax-related proposals that could be included are a tax-cut deal of up to \$100 billion to address the child tax credit and other tax extenders.

### **House Ways and Means Committee Leadership Race Pending**

*Key Point:*

- *A three-man race for the chairmanship of the House Ways and Means Committee is underway between prominent Republicans: Representative Vern Buchanan (FL), Representative Jason Smith (MO), and Representative Adrian Smith (NE).*

The three men vying for the position of top Republican on Ways and Means would significantly determine the legislative agenda for the 118<sup>th</sup> Congress. Representative Vern Buchanan (R-FL) is the most senior Republican on the committee behind retiring Ranking Member Kevin Brady (R-TX). Representative Jason Smith (R-MO) is currently the Ranking Member of the House Budget Committee and would seek to return to chair that committee if he is not selected as chair of the Ways and Means Committee (though there are several others vying for that seat as well). Representative Adrian Smith (R-NE) is active on Ways and

Means, having served as chair or ranking on several subcommittees, and is also competing for the gavel. The decision is expected to be made the week after next, when Congress returns and the House Republican Steering Committee, made up of leadership and regional and class representatives, meets to make that decision.

*For more information about tax issues you may [email](#) or call Christopher Hatcher at 202-659-8201. Jackson Notes contributed to this section.*

## **FINANCIAL SERVICES**

### ***Inter-Agency Working Group Releases New Report on Treasury Market Resilience Efforts***

#### *Key Point:*

- *The Inter-Agency Working Group (IAWG) released a [Staff Progress Report](#) to provide an update on a wide range of significant steps its members have taken to enhance the resilience of the U.S. Treasury market.*

The Inter-Agency Working Group on Treasury Market Surveillance (IAWG) released a staff progress report on November 10, to outline steps taken toward promoting an efficient Treasury market. Their objectives for the market include: (1) financing the federal government at the lowest cost to the taxpayer; (2) serving as a source of safe and liquid assets to support the broader financial system; and (3) ensuring smooth operation of the Treasury market for the Federal Reserve's implementation of monetary policy.

The IAWG members include staff from the U.S. Department of the Treasury, the Board of Governors of the Federal Reserve System, the Federal Reserve Bank of New York, the Securities and Exchange Commission (SEC), and the Commodity Futures Trading Commission (CFTC).

The IAWG members have, among other steps: (1) proposed rules to enhance the oversight of significant participants in and trading venues for the Treasury market and to centrally clear more Treasury transactions; (2) approved enhancements to the collection and public release of data on secondary market transactions; (3) initiated a pilot collection of data on non-centrally-cleared bilateral repurchase agreements; (4) studied the potential benefits and costs of all-to-all trading in the Treasury market; (5) analyzed options for achieving a more uniform margin regime across different market segments and for consistently identifying market participants across data collections; and (6) collected public feedback on possible approaches to additional public transparency.

The IAWG will convene its annual U.S. Treasury Market Conference on November 16, to further discuss improvements to Treasury market resilience.

### ***Federal Reserve Releases New Supervision and Regulation Report***

*Key Point:*

- *The Federal Reserve released its updated [Supervision and Regulation report](#), which includes regulatory developments since the May 2022 Supervision and Regulatory Report.*

The Federal Reserve released its new Supervision and Regulation report, which informs the public about its supervisory and regulatory policies and actions, as well as current banking conditions. The report outlines actions the Federal Reserve took with the aim of promoting a fairer and safer banking system. The report outlines the near-term priorities articulated by Vice Chair for Supervision Michael Barr, such as a review of the Federal Reserve's capital tools, the proposal to enhance the resolution of large banks, bank merger policy review, working with Congress and other regulators on stablecoin legislation, providing guidance on financial risks from climate change, working with bank regulators on crypto asset related activity, and focusing on access to efficient digital payments.

### ***Congressional Leaders Urge Action on Cryptocurrency***

*Key Points:*

- *Members of Congress expressed the need for crypto regulation, including Senators Debbie Stabenow (D-MI) and John Boozman (R-AR), who remain committed to advancing the Digital Commodities Consumer Protection Act of 2022 ([S. 4760](#)).*
- *Multiple Congressional hearings are expected, with the House Financial Services Committee announcing a hearing in December about the collapse of FTX.*

In response to the collapse of FTX, several Congressional leaders made statements about the need for action. Senate Banking Committee Chairman Sherrod Brown (D-OH) stated,

"The recent collapse of FTX is a loud warning bell that cryptocurrencies can fail, and just like we saw with over-the-counter derivatives that led to a financial crisis, these failures can have a ripple effect on consumers and other parts of our financial system. The cryptocurrency market's continued turmoil is why we must think carefully about how to regulate cryptocurrencies and their role in our economy. It is crucial that our financial watchdogs look into what led to FTX's collapse so we can fully understand the misconduct and abuses that took place. I will continue to work with them to hold bad actors in crypto

markets accountable. I am committed to finding the best path forward to protect consumers and the stability of the U.S. markets and banking system.”

Senate Banking Committee Ranking Member Pat Toomey (R-PA) emphasized the need to start finding common ground on legislation:

“It seems FTX’s foreign exchange was acting in ways that put customer funds at significant risk. Given that traditional financial exchanges generally operate differently, I imagine many FTX customers were not well informed about the firm’s debatable actions. This episode underscores the need for a sensible regulatory regime that, among other things, ensures a centralized exchange segregates and safeguards customer assets. More broadly speaking, the crypto sector has been operating with far too much ambiguity because: (1) regulators refuse to give well-meaning actors clear guidance; and (2) lawmakers refuse to act. We should start by finding common ground in the lame duck with stablecoin regulation.”

Senator Debbie Stabenow (D-MI), Chairwoman of the Senate Agriculture Committee, stated:

“The recent collapse of a major cryptocurrency exchange reinforces the urgent need for greater federal oversight of this industry. Consumers continue to be harmed by the lack of transparency and accountability in this market. It is time for Congress to act. The Committee remains committed to advancing the Digital Commodities Consumer Protection Act of 2022 (DCCPA) ([S. 4760](#)) to bring necessary safeguards to the digital commodities market. I am working closely with Ranking Member Boozman, our Committee members, and financial regulators to finalize and prepare this legislation for a Committee vote. Until legislation is enacted, I encourage all financial regulators to use their current authorities to the fullest extent to regulate and prosecute misconduct in these markets.”

Senator John Boozman (R-AR), Ranking Member of the Senate Agriculture Committee, said:

“The events that have transpired this week reinforce the clear need for greater federal oversight of the digital asset industry. That has been our goal since we began drafting the DCCPA. Working closely with our colleagues, financial regulators, academics, and a wide array of industry participants, we introduced a robust bill that aims to bring transparency and accountability to the market. In light of these developments, we are taking a top-down look to ensure it establishes the necessary safeguards the digital commodities market desperately needs. Chairwoman Stabenow and I remain committed to advancing a final version of the DCCPA that creates a regulatory framework that allows for international cooperation and gives consumers greater confidence that their investments are safe. While our legislative work continues, the Commodity Futures Trading Commission (CFTC) already

has the ability to regulate and prosecute fraud, manipulation, and abuse. I strongly encourage them to actively exercise those authorities when necessary.”

House Financial Services Committee Chairwoman Maxine Waters (D-CA) and Ranking Member Patrick McHenry (R-NC) [released](#) a statement announcing “bipartisan hearing into the collapse of FTX and the broader consequences for the digital asset ecosystem.” The statement indicates that they will hold a hearing in December and expect “to hear from the companies and individuals involved, including Sam Bankman-Fried, Alameda Research, Binance, FTX, and related entities, among others.”

### ***Senate Banking Committee and House Financial Services Committee Hold Hearings with Prudential Regulators***

#### *Key Points:*

- *Members discussed the merits of cryptocurrency and stablecoin regulation, the role regulators should play in climate policy, FDIC leadership, and other regulatory issues.*
- *Republicans outline topics they will seek continued oversight in the next Congress.*

On November 15, the Senate Banking Committee held a [hearing](#) titled “Oversight of Financial Regulators: A Strong Banking and Credit Union System for Main Street.” Chairman Sherrod Brown (D-OH) said regulators are modernizing an important civil rights law that will spur new investment in neighborhoods and communities that have been left on their own; have looked at overdraft, non-sufficient funds, and other fees to ensure that customers are treated fairly; have looked at the bank merger approval process so that the process does not harm local economies; have revisited financial system safeguards; and have overseen the formation of new institutions that serve communities that often get left behind. Chairman Brown stated regulators under the previous administration let crypto “run wild.” He encouraged a more prudent approach to future issues and careful regulatory oversight.

Ranking Member Pat Toomey (R-PA) warned about the politicization of financial regulation, expressing concern that some bank regulators are increasingly straying outside their mandates into politically contentious issues. He noted that in September, the Federal Reserve announced a pilot climate scenario analysis exercise with six of the largest U.S. banks. He urged Vice-Chair Michael Barr to keep his commitment to stay within the Federal Reserve’s narrow mandates by pulling the Federal Reserve out of the issue of global warming. He noted that last year, the Federal Reserve, FDIC, and OCC committed to providing greater clarity on the involvement of banks in crypto activities, such as providing custody services and issuing stablecoins. He expressed concern that there has been no public clarity. He said regulators have left banks in a “state of limbo” regarding crypto-

related activity. He argued that customers harmed by these collapses would have been better off if their crypto assets had been safeguarded by regulated banks.

Senator Cynthia Lummis (R-WY) highlighted that Wyoming banned banks engaged in digital asset activities from re-lending customer digital assets. She encouraged the Federal Reserve to pay close attention to Wyoming's cryptocurrency laws, and she stated that the Responsible Financial Innovation Act ([S. 4356](#)) would have prevented the FTX bankruptcy by prohibiting misuse and lending of customer assets, providing proof of reserves for exchanges, limiting affiliate transactions, and clarifying the bankruptcy treatment of digital assets. Senator Bill Hagerty (R-TN) said lawmakers share some of the blame for the FTX situation for not providing legal clarity, and Senators Bob Menendez (D-NJ) and Chris Van Hollen (D-MD) called for cryptocurrency regulation.

Senator Mike Rounds (R-SD) noted FDIC approved a proposal to uniformly increase bank deposit insurance assessment rates by 20 basis points until the deposit insurance fund reaches a designated reserve ratio of two percent. He stated this proposal has the potential to disproportionately harm community banks by forcing them to pay between five percent and 25 percent of their pre-tax income for insurance assessments. Senator Thom Tillis (R-NC) expressed concern with the nomination of Acting Chairman Gruenberg to the FDIC, despite not being confirmed by the Senate for over a decade. Senator Jerry Moran (R-KS) expressed concern with the dissolving of the Office of Supervisory Appeals despite an effort by FDIC to set up this office previously. He noted Mr. Gruenberg dissolved the office as his first action as chair.

On November 16, the House Financial Services Committee also held a [hearing](#) with the prudential banking regulators. Chairwoman Maxine Waters (D-CA) stated dangerous entities like FTX operate in the shadows outside of robust federal oversight and clear rules. She said she was pleased the Federal Reserve, OCC, and FDIC rejected a Trump-era rule to undermine the Community Reinvestment Act. She noted the regulators also jointly launched a new rulemaking to combat modern-day redlining. She added that the agencies are taking steps to address climate-related financial risks. She emphasized that mergers deserve strong scrutiny from regulators.

Ranking Member Patrick McHenry (R-NC) emphasized that Congress must develop a clear regulatory framework for the digital asset system. He said when the Republicans have the majority, they will spend time examining liquidity in the Treasury markets and the role the agencies play in facilitating that liquidity. He said Acting Chair Hsu has taken a posture with respect to third-party relationships that have had a negative impact on financial inclusion and that prior to Hsu's arrival, the OCC made significant progress in harnessing financial

technology to reach the unbanked and underbanked. He said the next Congress will hold regulators accountable for their decisions.

Representative Josh Gottheimer (D-NJ) stated digital assets and blockchain can revolutionize the financial system, but guardrails are needed. He highlighted his Stablecoin Innovation and Protection Act ([H.R. \\_\\_\\_](#)) along with stablecoin legislation being drafted by the committee. He noted that both bills would: (1) establish a definition for stablecoin issuers; (2) require stablecoins to be backed one-to-one with U.S. dollars; and (3) would create a pathway for bank and non-bank entities to become licensed stablecoin issuers.

### ***House Subcommittee Holds Hearing on U.S. Capital Flows to Foreign Adversaries***

#### *Key Point:*

- *Members discussed the risks of investing in China, China's access to U.S. markets, and U.S.-China capital market relations.*

On November 15, the House Financial Services Subcommittee on Investor Protection, Entrepreneurship, and Capital Markets held a [hearing](#) titled "Investing in Our Rivals: Examining U.S. Capital Flows to Foreign Rivals and Adversaries Around the World." Chairman Brad Sherman (D-CA) emphasized that Americans are substantially invested in China. He noted that the U.S. sends \$1.1 trillion in equity capital to China while China only sends the U.S. \$700 billion in equity capital. He stressed that Congress has decided to spend \$200 billion every year on capital gains allowance to encourage equity investment. He said it is questionable to say that capital should be deployed through the VIE structure, and it is also questionable whether index funds should go outside of the United States and invest in the Hong Kong or Shanghai stock exchanges. He stated the U.S. should know which Chinese companies are raising money in the U.S. by changing the rules to require a private placement to have some registration for the major deals so the SEC and other U.S. government agencies can review what is coming in. Representative Anthony Gonzalez (R-OH) expressed support for a law that encourages companies managing assets to not invest in Chinese companies.

### ***Treasury Department Releases Report on Consumer Finance Markets***

#### *Key Points:*

- *The report found that fintech firms are creating new risks to consumer protection and market integrity.*
- *The report calls for enhanced oversight of the consumer financial activities of non-bank firms.*

On November 16, the Treasury Department released a [report](#) titled “Assessing Impacts of New Entrant Non-bank Firms on Competition in Consumer Finance Markets.” The report provides an overview of the current market landscape, the impacts on competition, opportunities and risks related to new entrant non-bank firms and whether and how such firms might contribute positively to competition and the evolution of consumer finance markets, and the prospective impacts of further entry by Big Tech firms in consumer finance.

The report also makes the following recommendations for how regulators might seek to promote competition and innovation that benefits consumers, including: (1) encouraging enhanced measurement of competition and review of concentration in banking; (2) encouraging federal banking regulators to “continue to support responsible consumer credit underwriting approaches that are designed to increase credit visibility, reduce bias, and prudently expand access to credit to U.S. consumers”; (3) “Federal banking regulators should implement a clear and consistently applied supervisory framework for bank-fintech relationships”; (4) “The contractual arrangements underlying a bank-fintech relationship should support a robust, risk-based approach to reviewing an IDI’s banking activities”; (5) “Bank-fintech lending relationships that use the privileges of an IDI should be subject to regulatory standards for responsible consumer lending programs”; (6) “Non-bank lenders providing alternative forms of consumer credit should be subject to appropriate regulation and supervision”; and (7) “Federal banking regulators and CFPB [Consumer Financial Protection Bureau] should help promote a more unified approach to oversight of consumer-authorized data sharing.”

## Upcoming Hearings and Meetings

### **December 1**

*Discrimination in Banking:* The Senate Banking Committee is scheduled to hold a hearing on “Fairness in Financial Services: Racism and Discrimination in Banking”.

### **December 7**

*CFTC Advisory Committee:* The Agricultural Advisory Committee (AAC) will hold a [meeting](#) to focus on topics related to the agricultural economy, including geopolitical and sustainability issues, as well as recent developments in the agricultural derivatives markets.

### **December 8**

*FACI:* The Federal Advisory Committee on Insurance (FACI) will hold a [meeting](#) to discuss topics related to climate-related financial risk and the insurance sector and the availability

and affordability of auto insurance. The FACI will also receive an update on developments at the International Association of Insurance Supervisors and from the Federal Insurance Office (FIO) on its activities.

## **December 15**

*CFPB Semi-Annual Report:* The Senate Banking Committee is scheduled to hold a hearing on “The Consumer Financial Protection Bureau’s Semi-Annual Report to Congress”.

*For more information about financial services issues you may email [Joel Oswald](#) or [Mahlet Makonnen](#). Nicholas May contributed to this section.*

## **ENERGY & ENVIRONMENT**

### **Biden Administration Actions and Announcements for COP27**

#### *Key Points:*

- *President Biden and his Administration used the COP27 UN Climate Conference to showcase past actions on climate and unveil new initiatives.*
- *In conjunction with Biden’s appearance at the conclave, the Environmental Protection Agency released an updated and expanded rulemaking targeting oil and natural gas sector methane emissions. The new proposal supplements draft regulations the agency published in November 2021.*

The Biden Administration tied its participation in the [United Nations Climate Change Conference \(COP27\)](#) with announcements of new actions and policies implemented since it took office in January 2021. President Biden gave a [speech](#) at the summit last Friday.

***Past Administration Actions on Climate:*** At the beginning of the COP27 Conference, the White House released a [fact sheet](#) listing the Administration’s actions on climate policy including:

- Implementing “the comprehensive U.S. Methane Emissions Reduction Action Plan and measures in the Inflation Reduction Act and [Infrastructure Investment and Jobs Act] covering the oil and gas industry, agriculture, buildings and addressing abandoned mine lands, and orphan oil and gas wells”;
- Acting by “U.S. independent financial regulators improving their understanding and management of these risks, for example through the proposed climate disclosure rule by the Securities and Exchange Commission and the [Office of the Comptroller of the Currency’s] and [Federal Deposit Insurance Corporation’s] proposed principles on climate-related financial risk management for large banks”;

- Making “the largest investments ever in public transportation, passenger rail, an electric vehicle (EV) charging network, hydrogen infrastructure, and battery supply chains; rallying automakers and autoworkers around an electric transportation future, by setting a national target of 50% electric vehicle sales share in 2030”; and
- “Advancing the Global Methane Pledge (GMP) by building a coalition that now includes over 130 countries committed to reduce global anthropogenic methane emissions at least 30 percent below 2020 levels by 2030...”

**Biden Administration COP27 Announcements:** Ahead of President Biden’s arrival last week at COP27, the White House issued another [fact sheet](#) detailing “new initiatives” on climate change including:

- Release of the “[U.S. Methane Emissions Reduction Plan Update](#)”, which details plans to “reinforce U.S. international leadership on methane action as a co-founder of the Global Methane Pledge...” The Plan addresses policies targeting: oil and natural gas; landfills; abandoned mines; agriculture; buildings; and industrial sources. Oil and gas sector initiatives include: (1) the “Standards of Performance for New, Reconstructed, and Modified Sources and Emissions Guidelines for Existing Sources: Oil and Natural Gas Sector Climate Review” [Supplemental Notice of Proposed Rulemaking \(SNPRM\)](#); (2) “\$1.55 billion in financial and technical assistance under the Inflation Reduction Act to monitor and reduce methane emissions from oil and gas operations, including \$700 million to support pollution reduction activities at marginal conventional wells”; orphan oil and gas well remediation; and (4) pipeline safety regulations promulgated by the Pipeline and Hazardous Materials Safety Administration (PHMSA) that will reduce methane emissions.
- Release of the “[Joint Declaration from Energy Importers and Exporters on Reducing Greenhouse Gas Emissions from Fossil Fuels](#)”, which “unites major energy importers and exporters to minimize flaring, methane, and CO2 emissions across the fossil energy value chain to the fullest extent practicable.”
- Support for the “UN Environment Programs’ International Methane Emissions Observatory[’s Methane Alert and Response System], a new system to tackle methane ‘super-emitters’ by providing countries and companies with data to enable action on major emissions sources.”

## **FERC Acts on Reliability, Reviews Enforcement Activities**

### *Key Points:*

- *At its meeting on Thursday, the Federal Energy Regulatory Commission approved two orders and a proposed rulemaking to enhance the reliability of grid-connected renewable energy resources.*

- *The Commission also received a report on its enforcement activities and approved a new liquefied natural gas export facility in Louisiana.*

On November 17, the Federal Energy Regulatory Commission (FERC) held its monthly open meeting and took the following actions:

- **Electric Reliability:** FERC approved three actions intended to better ensure electric grid reliability as new inverter-based resources are connected to the bulk power system. Inverter-based resources include renewables such as wind and solar which produce direct current (DC) electricity, which must be converted to alternating current (AC) electricity on the grid. As described in a [press release](#), FERC approved: (1) “An order directing [the North American Electric Reliability Corporation] NERC to develop a plan to register the entities that own and operate [Inverter-Based Resources] IBRs ([RD22-4](#));” (2) “A Notice of Proposed Rulemaking to direct NERC to develop reliability standards for IBRs that cover data sharing, model validation, planning and operational studies, and performance requirements ([RM22-12](#)); and” (3) “An order approving reliability standards that are related to IBRs, which NERC proposed earlier this year ([RD22-5](#)).”
- **Enforcement:** FERC’s Office of Enforcement provided a [report](#) on the Commission’s Fiscal Year 2022 enforcement activities. As described in a [press release](#), the report “focused on five distinct areas: (1) fraud and market manipulation; (2) serious violations of the Reliability Standards; (3) anticompetitive conduct; (4) threats to the nation’s energy infrastructure and associated impacts on the environment and surrounding communities; and (5) conduct that threatens transparency in regulated markets.”
- **LNG Export Facility:** The Commission approved an [order](#) granting a Natural Gas Act Section 3 authorization for the Commonwealth LNG export facility and associated gas pipeline infrastructure. Chairman Richard Glick wrote a [concurrence](#) to the order outlining his concerns that Section 3 of the Natural Gas Act “does not provide a sufficient framework for consideration of the adverse impacts associated with a proposed LNG facility.”

## Upcoming Hearings and Events

### December 1

**Carbon Management:** The Department of Energy’s Office of Fossil Energy and Carbon Management (FECM) will hold a “Carbon Management Day” webinar. The webinar will provide “updates on key initiatives, take a closer look into FECM-funded carbon management projects, and inform stakeholders on how to get involved.”

**December 15**

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

**December**

**National Petroleum Council:** The [National Petroleum Council \(NPC\)](#) is expected to hold its 132<sup>nd</sup> meeting in December. The agenda will include three studies requested by Secretary of Energy Jennifer Granholm: “Deployment of low and zero carbon hydrogen energy at scale through the entire value chain” ([request letter](#)); “Reducing emissions of greenhouse gases (GHG) from the U.S. natural gas supply chain” ([request letter](#)); and “Short-term actions and transition strategies”, which is requested to include “an analysis of the changing global crude supply and how it will positively and/or negatively impact U.S.-based producers, suppliers, and refiners...” ([request letter](#)).

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

**HEALTH****Expected Leadership Changes for Senate HELP***Key Point:*

- *The Senate Health, Education, Labor and Pensions Committee is expected to be led next year by Senators Bernie Sanders (I-VT) and Bill Cassidy (R-LA).*

The Senate Health, Education, Labor and Pensions (HELP) Committee will see new leadership in the 118<sup>th</sup> Congress. Current Chair Patty Murray (D-WA) is expected to become Chair of the Senate Appropriations Committee. Ranking Member Richard Burr (R-NC) is retiring.

On the Democratic side, Senator Bernie Sanders (I-VT) is expected to be named Chair of the HELP Committee. Yesterday, his spokesperson indicated Sanders’ focus will be on “universal health care, lowering the cost of prescription drugs, increasing access to higher education, and protecting workers’ rights on the job.”

On the Republican side, there have been talks for months on whether HELP would be led by Senator Rand Paul (R-KY) who had seniority or Senator Bill Cassidy (R-LA). With Paul’s announcement this week that he will seek the Ranking Member position on the Senate Homeland Security and Governmental Affairs Committee (HSGAC), Cassidy is now in line to

be the top Republican on HELP. Cassidy has not yet indicated what his priority may be next year, but in the past he has expressed interest in oversight, particularly with surprise billing and has introduced bills in the past addressing prescription drug costs.

For more information about health care issues you may [email](#) or call Nicole Ruzinski Bertsch at 202-659-8201.

## **CYBERSECURITY & PRIVACY**

### **FBI, CISA, and GAO Report on Agency Network Failures**

#### *Key Points:*

- *The Federal Bureau of Investigation (FBI) and the Cybersecurity and Infrastructure Security Agency (CISA) [reported](#) that Iranian hackers exploited an unpatched Log4Shell vulnerability at an unnamed agency, which was required to be patched by the end of 2021. The Government Accountability Office (GAO) released a [report](#) that expressed concern with the lack of action the Department of the Interior (DOI) has taken to strengthen the cybersecurity of offshore oil and gas.*

On November 16, a [Joint Cybersecurity Advisory](#) was released by the FBI and CISA reporting that Iranian government-sponsored actors compromised an unnamed federal network and deployed crypto miners and credential harvesters. CISA and the FBI urged all organizations with affected VMWare systems that did not immediately patch reported flaws to immediately undertake threat-hunting activities. The report also recommended mitigations all agencies should undertake to prevent future breaches.

Similarly, the GAO report entitled, "[Offshore Oil and Gas: Strategy Urgently Needed to Address Cybersecurity Risks to Infrastructure](#)" highlighted the DOI's Bureau of Safety and Environmental Enforcement (BSEE) lack of action on implementing a cybersecurity strategy. GAO noted, "In 2015 and 2020 BSEE initiated efforts to address cybersecurity risks, but neither resulted in substantial action. Earlier this year, BSEE again started another such initiative and hired a cybersecurity specialist to lead it. However, bureau officials said the initiative will be paused until the specialist is adequately versed in the relevant issues." GAO noted that persistent threats exist for offshore oil and gas and vulnerabilities are numerous due to increased reliance on remotely connected operational technology for exploration and production methods.

## Congress Pushing DHS to Clarify and Release Continuation of the Economy Plan

### Key Point:

- On November 15, Department of Homeland Security (DHS) Secretary Alejandro Mayorkas [testified](#) before the House Committee on Homeland Security, commenting on the status of the DHS plan to ensure the functioning of the U.S. economy during a major cyberattack.

Secretary Mayorkas replied to questions from lawmakers earlier this week on the status of the DHS plan. He noted that DHS is working swiftly to produce and plan and that he would follow up “very quickly” on committee members’ concerns. Representative Andrew Garbarino (R-NY), Ranking Member of the Subcommittee on Cybersecurity, noted, “We’re now a little bit over a month before the deadline and we have yet to receive any information on where CISA or the department is on the Continuation of the Economy Plan. The development of the Continuation of the Economy Plan (COTE) is a national security imperative for the safety, security, and prosperity of the U.S. economy.” Chairman Bennie Thompson (D-MS) and Ranking Member John Katko (R-NY) noted a May 2021 [letter](#) that called for the development of a Continuation of the Economy Plan (COTE) following the Colonial Pipeline incident. The Cyberspace Solarium Commission also [called](#) for a COTE in 2020. Whether DHS will meet the deadline is unclear.

## Cyber Offensive Operations Detailed by FBI Director Wray in Senate Hearing

### Key Point:

- On November 17, Federal Bureau of Investigation (FBI) Director Christopher Wray [testified](#) before the Senate Committee on Homeland Security and Governmental Affairs, noting that the FBI conducts cyber offensive operations.

Senator Mitt Romney (R-UT) asked Director Wray about cyberattacks, stating, “It strikes me that the only effective way to stop the attacks that come from a cyber nature is to attack back; that the best defense is a good offense.” Director Wray noted that “offensive is a critical part of our overall effort to push back against cyber adversaries.” He did not provide specifics into the types of offensive operations the FBI has undertaken, but acknowledged that the FBI does conduct cyber counterintelligence, target adversaries’ infrastructure, disrupt malicious cryptocurrency schemes, and indict cyber criminals.

## House Leadership Changes Affect Cyber and Privacy Legislation

### Key Points:

- *On November 17, Speaker Nancy Pelosi (D-CA) announced she would not seek reelection to Democratic leadership and would return to only representing the people of San Francisco.*
- *California Democrats have long protested a federal preemption aspect of the proposed federal privacy law, but the absence of Speaker Pelosi from leadership could weaken their stance.*
- *Representative Frank Lucas (R-OK) is expected to become Chairman of the House Committee on Science, Space, and Technology.*

The American Data Privacy and Protection Act ([H.R. 8152](#)) will not pass this Congress but will likely be addressed early during the next Congress. California has long been a leader in privacy legislation and the American Data Privacy and Protection Act were opposed by Democrats from California, including Pelosi, for including federal preemption. Republicans now control Congress and potential Speaker Kevin McCarthy (R-CA) has not expressed opposition to federal privacy legislation. Similarly, House Energy and Commerce Ranking Member Cathy McMorris Rodgers (R-WA) sponsored the legislation and will become chair of the House Energy and Commerce Committee in the 118th Congress. Republicans favor federal preemption because they view it as being business-friendly and reducing regulatory hurdles for businesses operating in multiple states.

Additionally, Ranking Member Frank Lucas (R-OK) of the House Committee on Science, Space, and Technology will chair the committee in the 118th Congress. Lucas will oversee the implementation of the CHIPS and Science Act and the distribution of funds by the Biden Administration, potentially affecting cyber and privacy issues over the next two years.

*For more information about cybersecurity issues you may email [Mahlet Makonnen](#) or [Frank Vlossak](#). Jackson Notes contributed to this section. Jackson Notes contributed to this section.*

## TRADE

### Trade Minister Raises Concerns About U.S. Tax Credit for EVs

#### *Key Points:*

- *The Inflation Reduction Act enacted a tax credit on electric vehicles made in the United States.*
- *UK Trade Minister Kemi Badenoch raised concerns over the eclectic vehicle tax credit enacted as part of the Inflation Reduction Act.*
- *The European Union, South Korea, and Japan have raised similar concerns about the tax credit for electric vehicles.*
- *The European Union trade ministers will meet on November 25, 2022, to address issues with U.S.-EU trade relations, including discussions on EV.*

Many of the United States' most important trade partners have voiced concern over the tax credit on electric vehicles that was enacted as part of the Inflation Reduction Act (IRA). Most recently, the United Kingdom (UK)'s Secretary of State for International Trade, Kemi Badenoch, joined the European Union (EU), South Korea, and Japan in voicing concern about the tax credit. Badenoch [said](#) the tax credit "not only bars vehicles made in the UK from the U.S. market, but it also affects vehicles made in the U.S. by UK manufacturers." In recent weeks, the EU, South Korea, and Japan have expressed concern that the sourcing requirements attached to the EV tax credit are discriminatory. Although the UK is not actively coordinating with the EU or other affected countries, it has been working with the U.S. Administration, urging them to look at solutions to this issue.

In addition, the EU Commission has been working with South Korea and Japan to discuss ways to address their shared concerns about the IRA. The European Commission Executive Vice President, Valdis Dombrovskis, said he is confident that a solution can be worked out with the United States. Senator Raphael Warnock (D-GA) introduced legislation that would delay the phase-in period for the controversial sourcing requirements until foreign automakers have time to open plants in the United States. Additionally, the option of bringing a case to the World Trade Organization (WTO) remains on the table.

Despite her concerns, Badenoch reaffirmed the UK's interest in inking a free trade agreement with the U.S. There is bipartisan support in the United States for the Biden Administration to negotiate a trade deal with the UK. Senators Rob Portman (R-OH) and Chris Coons (D-DE) have introduced a bill that would give the President five years of "fast-track" authority to strike a comprehensive trade deal with the United Kingdom. The U.S. and

the UK began trade talks late in the Trump Administration, and the UK has openly pushed for their resumption.

### *EU Trade Ministers Will Meet on U.S. Trade Relations, Expected to Include EV Discussions*

In a related step, the European Union's (EU) trade ministers will meet on November 25, 2022, to address issues with its trade relations with the U.S. The EU's primary concern is the sourcing requirements attached to the electric vehicle (EV) tax credit that was enacted in the Inflation Reduction Act (IRA). In addition to EV concerns, EU leaders have expressed concern about the local assembly or local content requirements present throughout the IRA. The European Commission Executive Vice President, Valdis Dombrovskis, expressed concern about the provisions related to batteries, clean hydrogen, and some other elements in the green economy.

Last year, the EU and the U.S. took important steps to reinvigorate their partnership by establishing the Trade and Technology Council Task Force. The task force will meet for the third time on December 5, 2022, in Washington, DC.

### **U.S. Trade Representative is "Bullish" on the Trade Prospects**

#### *Key Points:*

- *U.S. Trade Representative Katherine Tai said she is "bullish" on the trade prospects for 2023.*
- *The focus of the Asia-Pacific Economic Cooperation (APEC) trade discussions will be sustainability, resiliency, and inclusivity.*

U.S. Trade Representative (USTR) Katherine Tai said she is "bullish" on the trade prospects for 2023. She noted the United States will host the upcoming Asia-Pacific Economic Cooperation (APEC) forum dedicated to promoting free trade throughout the Asia-Pacific region. In addition, she said the momentum in the Indo-Pacific Economic Framework for Prosperity negotiations and the reform efforts at the World Trade Organization (WTO) make her optimistic for the future. USTR Tai argued APEC is an incubator for ideas and a catalyst for cooperation. USTR Tai also said the focus of the APEC trade discussions will be sustainability, resiliency, and inclusivity. Additionally, she expressed optimism that the Indo-Pacific Economic Framework for Prosperity negotiations will deliver "timely results" in 2023.

## U.S. and Turkey Hold Talks, Trade Discussed

### Key Points:

- *President Biden held an unannounced meeting with Turkish President Recep, Tayyip Erdoğan, to discuss a range of issues including trade.*
- *High-level trade talks between the U.S. and Turkey have been rare during the Biden Administration.*

President Biden this week held an unannounced meeting with Turkish President, Recep Tayyip Erdoğan, to discuss a range of issues including trade. High-level trade talks between the U.S. and Turkey have been rare during the Biden Administration. Although no details of the meeting were published, the Turkish government said trade and security issues were discussed during the meeting and the White House said President Biden showed appreciation for Erdoğan's commitment to renew the Black Sea Grain Initiative. In addition, the two leaders discussed continuing close coordination on North Atlantic Treaty Organization (NATO) alliance issues as well as other issues of regional and global concern.

## U.S. and China Hold Trade Talks

### Key Points:

- *U.S. Trade Representative Katherine Tai met with Chinese Commerce Minister Wang Wentao.*
- *The meeting follows the first-in person talks between President Biden and Chinese President Xi Jinping earlier this week.*

Following the first in person meeting between President Biden and Chinese President Xi Jinping, the two leaders told their senior officials to continue to communicate. On Friday November 18, 2022, U.S. Trade Representative (USTR) Katherine Tai met with Chinese Commerce Minister, Wang Wentao, at the Asia-Pacific Economic Cooperation (APEC) ministerial. Ambassador Tai shared the United States' vision for APEC. In addition, according to the USTR [readout](#), they discussed bilateral trade and emphasized the importance of maintaining open lines of communication between the United States and the People's Republic of China (PRC).

*For more information about trade issues you may [email](#) or call Christopher Hatcher at 202-659-8201. Bridget Doherty contributed to this section.*