



January 14, 2022

Washington Update

This Week In Congress

House – The House passed a legislative vehicle ([H.R. 5746](#)) combining elements of the John R. Lewis Voting Rights Advancement Act ([H.R. 4](#)) and the Freedom to Vote Act ([S. 2747](#)). The House also passed the Guard and Reserve GI Bill Parity Act ([H.R. 1836](#)).

Senate – The Senate confirmed Amitabha Bose to be Administrator of the Federal Railroad Administration and Alan Davidson to be Assistant Secretary of Commerce for Communications and Information. The Senate failed to advance legislation to impose sanctions related to the Nord Stream 2 pipeline ([S. 3436](#)).

Next Week In Congress

House – The House is expected to consider the Ensuring Veterans' Smooth Transition Act ([H.R. 4673](#)), and the Supplemental Impact Aid Flexibility Act ([S. 2959](#)).

Senate – The Senate will consider the voting rights legislation passed by the House and may consider additional nominations. The Senate had been scheduled to be in recess next week, but the recess was postponed to the week of January 24.

TAX

House Democrats Begin to Envision a Smaller Build Back Better Act

Key Point:

- *House Democrats have begun to envision a scaled back version of the Build Back Better Act as the Senate turns its attention to voting rights.*

After Senator Manchin (D-WV) announced at the end of 2021 he would not support the Build Back Better Act ([H.R. 5376](#)) (BBB) as written, internal Democratic discussions have been ongoing as to how and when to revise the legislation to appeal to more moderate Democratic Senators such as Senators Manchin (D-WV) and Sinema (D-AZ). Earlier this week, House Ways and Means Committee Chairman Neal (D-MA) [told reporters](#) there is still hope for the legislation in the coming weeks, stating “That’s the issue here. I still think this is entirely workable.” A number of other prominent Democratic members of the House Ways and Means Committee also predicted a scaled-back version of the package could be made workable in the coming weeks. The original sponsor of the legislation, House Budget Committee Chairman Yarmuth (D-KY) stated he believes the problem with the legislation is the name which he believes links the package too much to infrastructure investment saying, “We ought to ditch the name and call it the American Families Plan, which is what it was originally.” While the House is beginning

these preliminary discussions there is very little movement in the Senate, last week Senator Manchin told reporters he was not aware of any discussions on another version of the legislation. All of these discussions come as Congress returns from recess and begins anew with their legislative priorities for the year. This hypothetical package will also be vying Congressional attention in a time where the current continuing resolution will expire on February 18, and the Senate has turned its attention to voting rights legislation.

In the end, any chance of action on the BBB will depend on Senator Manchin and, to a lesser degree, Senator Sinema, both of whom would have to support a package for it to move in the Senate. Right now, the legislation is in limbo and action remains paused.

National Taxpayer Advocate Issues 2021 Annual Report

Key Point:

- *The National Taxpayer Advocate issued its 2021 annual report which includes recommendations for the IRS to improve upon in the coming filing season.*

National Taxpayer Advocate Collins today released her [2021 Annual Report to Congress](#), calling calendar year 2021 “the most challenging year taxpayers and tax professionals have ever experienced.” The report notes that tens of millions of taxpayers experienced delays in the processing of their returns, and with 77 percent of individual taxpayers receiving refunds, “processing delays translated directly into refund delays.” The report lauds the IRS’s performance during the COVID-19 pandemic and their distribution of millions of Child Tax Credit (CTC) payments and Economic Impact Payments (EIPs) throughout the duration of the pandemic. The report goes on to say the report says “[t]he imbalance between the IRS’s workload and its resources has never been greater.” She went on to say, “While my report focuses primarily on the problems of 2021, I am deeply concerned about the upcoming filing season.” Collins added “Paper is the IRS’s Kryptonite, and the agency is still buried in it.” As of late December, the IRS had backlogs of 6 million unprocessed original individual returns (Forms 1040), 2.3 million unprocessed amended individual returns (Forms 1040-X), more than 2 million unprocessed employer’s quarterly tax returns (Forms 941 and 941-X), and about 5 million pieces of taxpayer correspondence. The report also goes on to highlight a number of processing delays which only further impacted the 2021 filing season including increased call volume at the IRS’s call line. The report makes a number of recommendations to improve the filing process including; (1) utilizing scanning technology; (2) deploying customer callback technologies; (3) improving online taxpayer accounts; and (4) creating and updating a weekly dashboard to keep the public up to date on current delay information.

JCT Updates List of Tax Provisions Which Expire in 2021

Key Point:

- *JCT updated the list of tax provisions set to expire in 2021 through 2031.*

Earlier this week, the Joint Committee on Taxation (JCT) issued a list of tax provisions which were set to expire in 2021 and the years following up until 2031, which can be found [here](#). Forty provisions expire at the end of 2021, including child credits, energy tax incentives and a host of traditional “extenders.” A number of the expiring provisions would have been addressed by the proposed “Build Back Better Act,” but with that legislation at a standstill many of the expiring provisions may have to be solved with separate legislative actions. Finally, the report is a reminder of the many provisions in the tax code that expire or sunset at the end of 2025, including almost all the individual tax provisions enacted in TCJA.

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

FINANCIAL SERVICES

Senate Banking Committee Holds Hearing on Federal Reserve, FHFA Nominees

Key Points:

- *The Senate Banking Committee held hearings on the nominations of Jerome Powell to be Chairman and Lael Brainard to be Vice Chair of the Federal Reserve.*
- *Much of the debate at the hearings focused on inflation and the labor market.*

This week, the Senate Banking Committee held two hearings on the nominations of:

- Jerome Powell to be Chairman of the Federal Reserve Board;
- Lael Brainard to be Vice Chair of the Federal Reserve Board; and
- Sandra Thompson to be Director of the Federal Housing Finance Agency (FHFA).

Chairman Sherrod Brown (D-OH) stressed that a great deal of progress has been made over the last year, pointing to the expanded availability of vaccines and the 6.4 million jobs created last year. He praised Powell’s renomination as an example of President Biden’s bipartisanship. He stated that Chairman Powell and Governor Brainard took important steps to stabilize the economy, and that Powell stood firm against steps to politicize the Federal Reserve. He said the best way to help the economy is to get the pandemic under control with vaccines. He stated that wages are rising, and people are taking better jobs, disputing claims that there is a labor shortage. He said supply chains have been disrupted by the pandemic because corporations prioritized short-term gains over long-term resilience. He stated that corporate opportunism is raising the cost of consumer goods. He said wages are still far from keeping up with corporate profits, stressing the need to reorient the economy from Wall Street to Main Street.

Ranking Member Pat Toomey (R-PA) said he intends to vote in favor of Chairman Powell's renomination. He commended Powell's role in stabilizing the economy at the start of the pandemic, and he asserted that the regulatory reforms implemented by Powell did not come at the expense of stability. Toomey said the Fed has dramatically expanded its balance sheet. He noted that he had repeatedly cautioned against the threat of inflation. He said he is glad the Fed has begun to acknowledge the threat of inflation but expressed concern with the Federal Reserve's long-term policies. He said it was a mistake to continue quantitative easing (QE) throughout the pandemic. He expressed worry that the Federal Reserve's monetary framework has led to them being behind the curve on inflation. Toomey said he is concerned that the Federal Reserve and its regional banks are engaging on political issues like racial justice and climate change, and he suggested that the Federal Reserve is trying to direct capital away from the fossil fuel sector, which raises concerns about its independence.

Much of the debate at the Powell hearing focused on the high rate of inflation. Committee Democrats argued that inflation is a result of supply chain disruptions caused by the pandemic. Chairman Brown asked if inflation can be traced to supply and demand imbalances caused by the pandemic. Powell responded that this is the case, "for the most part." Senator Mike Crapo (R-ID) said Chairman Powell had previously stated that high inflation would persist through the middle of this year. He asked about Powell's current predictions regarding inflationary pressures. Powell responded that not much has changed since last November. He stated that inflationary pressures are on track to remain into the middle of 2022. He asserted that if it continues beyond that the Federal Reserve will respond accordingly. Crapo expressed concern over the recent rise in consumer prices and he stressed federal deficit spending is not the solution to this problem. He asked how quickly the country can get back to the 2 percent inflation goal of the Federal Reserve. Brainard responded she is also concerned over the high level of inflation. She added the Federal Reserve will be ending asset purchases in the first quarter and will be raising rates in the coming year. She predicted inflation will remain high for the first two quarters of 2022 but could return to 2.5% near the end of 2022. She stressed she remains committed to bringing down inflation consistent with a strong recovery.

Chairman Brown said last year the Financial Stability Oversight Council (FSOC) released its report on climate-related financial risk. He said Powell has described climate change as an emerging risk. He asked if the Federal Reserve would follow the report's recommendations, including implementing climate stress tests for the largest banks. Powell said they are considering climate stress tests, suggesting that they are likely to be a key tool going forward and are very different from other stress tests.

Senator Steve Daines (R-MT) asked on what basis the Federal Reserve is positioned to shape environmental policy given its lack of experience in this area. Governor Brainard responded the Federal Reserve does not set environmental policy, but it does ensure supervised institutions are properly managing their risks. She emphasized the Federal Reserve does not have any expertise in disease, but they did have to react to the COVID-19 pandemic. She stressed the Federal Reserve is tasked with ensuring how shocks affect the economy. Daines noted the Federal Reserve also should consider how a shocking rise in oil prices will affect Americans if the U.S. loses its energy independence. He expressed

concern over the stoppage of the Keystone XL Pipeline by the Biden Administration. He asked if rolling blackouts could be a shock to the financial market. Brainard responded that the Federal Reserve tries to take into account a whole host of risks to the financial system including risks from abroad.

Senator Crapo said he previously asked Chairman Powell about the status of the Federal Reserve's report on digital currencies and noted that Powell responded that delays in releasing the report were due to the Fed wanting to ensure their analysis was complete and correct. He asked for an update on the status of the report. He asked if there are "problems with sharing this report with Congress and the public" due to "what the Fed may be proposing with respect to possibly centralizing public digital currency." Powell said the report is "ready to go" and he expects it to be released within weeks. He asserted that the report is more focused on raising questions and seeking input from the public rather than on taking positions, though they do take some positions.

Senator Crapo stated Congress must find an expeditious way forward to end the conservatorship of the Government Sponsored Enterprises (GSEs), Fannie Mae and Freddie Mac. He applauded Ranking Member Toomey for releasing his housing finance reform principles last March which reflect his goals as well. He stated these principles include: (1) establishing stronger layers of taxpayer protection; (2) preserving the 30-year fixed rate mortgage; (3) increasing competition among mortgage guarantors; and (4) promoting access to affordable housing. He asked if Ms. Thompson would support legislation consistent with these principles. Thompson responded in the affirmative.

President Biden Nominates Sarah Bloom Raskin, Lisa Cook and Philip Jefferson to the Federal Reserve Board

Key Points:

- *President Biden will nominate Sarah Bloom Raskin to serve as the Federal Reserve's Vice Chair for Supervision.*
- *The President will also nominate Lisa Cook and Philip Jefferson to serve as Governors.*

On January 14, the White House [announced](#) that President Biden intends to nominate Sarah Bloom Raskin to serve as Federal Reserve Vice Chair for Supervision, as well as Lisa Cook and Philip Jefferson to be Federal Reserve Board Governors. Vice Chair Richard Clarida announced earlier this week that he would be resigning effective January 14. Bloom Raskin, Cook, and Jefferson would fill the three open seats on the Board if confirmed.

Sarah Bloom Raskin previously served a Governor from 2010 to 2014 and as Deputy Secretary of the Treasury from 2014-2017. Since leaving office, Bloom Raskin has worked as a professor at the University of Maryland Francis King Carey School of Law and as a fellow at Duke University. Bloom Raskin is married to Representative Jamie Raskin (D-MD). She received B.A. in economics from Amherst College and her J.D. from Harvard Law School.

Lisa Cook is Professor of Economics and International Relations at Michigan State University. Cook was a senior economist at the Council of Economic Advisers from August 2011 to August 2012. She was a member of President Biden's transition team supporting their efforts related to the Federal Reserve and other federal financial regulators. She was the first Marshall Scholar from Spelman College and received a second B.A. in Philosophy, Politics, and Economics from Oxford University. She earned a Ph.D. in economics from the University of California, Berkeley with fields in macroeconomics and international economics.

Dr. Philip N. Jefferson is the Vice President for Academic Affairs, Dean of Faculty, and the Paul B. Freeland Professor of Economics at Davidson College. He was the previous president of the National Economic Association and has taught at Swarthmore College, Columbia University, and the University of Virginia. Jefferson received his BA in economics from Vassar College in 1983 and his PhD in economics from the University of Virginia in 1990. Jefferson worked at the Federal Reserve from 1983 to 1985 as a research assistant in the fiscal analysis section, as well as from 1996 to 1997 as an economist in the monetary affairs division.

Senate Banking Committee Chairman Sherrod Brown (D-OH) issued a [statement](#) praising the nominees:

With these nominees, President Biden is showing the country what a Federal Reserve standing on the side of workers and their local communities looks like. We need leaders who will ensure that workers and their families reap the benefits of the economic growth they create, and who will not repeat past mistakes that led to a booming recovery for Wall Street, and a weak one for everyone else. Throughout their long, distinguished careers, they've proven they understand how our economy works – and who makes it work. They will also bring important perspectives to the Federal Reserve Board about the economic issues women, Black and brown workers, and rural and industrial communities across the country face. I urge my colleagues to support these nominees and look forward to their hearings before the Banking and Housing Committee.

Ranking Member Pat Toomey (R-PA) issued a [statement](#) in which he raised concerns with Bloom Raskin's nomination:

Members of the Fed's Board of Governors should have exceptional qualifications and a strict view of the Fed's narrow mandates on monetary policy and banking supervision. I will closely examine whether Ms. Cook and Mr. Jefferson have the necessary experience, judgment, and policy views to serve as Fed Governors.

Sarah Bloom Raskin has specifically called for the Fed to pressure banks to choke off credit to traditional energy companies and to exclude those employers from any Fed emergency lending facilities. I have serious concerns that she would abuse the Fed's narrow statutory mandates on monetary policy and banking supervision to have the central bank actively engaged in capital allocation. Such actions not only threaten both the Fed's independence and effectiveness, but would also weaken economic growth.

I look forward to hearing how these nominees plan to operate free from political interference. As evidenced by the record of recent nominees and developments at the FDIC, many on the Left want to misuse financial regulation to politicize capital allocation and advance a far-left agenda. Such actions would threaten to undermine both the integrity and the independence of financial regulators.

Agriculture Committee Leaders Send Letter to the CFTC Regarding Digital Assets

Key Point:

- *The letter asked CFTC Chairman Behnam to identify any shortfalls in the Commission's authorities to protect consumers and ensure market integrity.*

On January 12, Senate Agriculture Committee Chair Debbie Stabenow (D-MI) and Ranking Member John Boozman (R-AR) and House Agriculture Committee Chairman David Scott (D-GA) and Ranking Member Glenn Thompson (R-PA) sent a [letter](#) to Commodity Futures Trading Commission (CFTC) Chairman Rostin Behnam regarding the digital asset marketplace. The letter stated:

The CFTC has a critical role to play to ensure the integrity of digital asset markets. While some of these technologies have the potential to modernize the financial system, it is imperative that customers are protected from fraud and abuse and that these markets are fair and transparent.

The letter requested responses to the eight questions below:

1. What is the current estimated size of the digital asset marketplace? How does this marketplace compare in size and participation to those markets directly regulated by the Commission?
2. What proportion of the digital asset market do you estimate is currently traded by U.S. persons?
3. Within the United States, what is the estimated scope of retail participation in digital asset markets? How does this compare to the level of retail participation in derivatives markets for other commodities?
4. In what ways are digital asset markets and intermediaries different than the existing markets and intermediaries under the CFTC's jurisdiction? In what ways are they similar? Are there principles for market regulation that can be applied to both?
5. Discuss the types of misconduct the CFTC has observed in the digital asset marketplace and how, if at all, this differs from misconduct found in traditional financial markets.
6. How has LabCFTC been working with stakeholders in the digital asset and DeFi space to support innovation and development, while also ensuring customer protection and financial market integrity?
7. Discuss how the CFTC has collaborated with other federal financial regulators regarding digital assets.

8. Do you foresee any shortfalls in the Commission’s authorities to protect customers and ensure market integrity as the digital asset marketplace grows in volume and scope?

Upcoming Hearings and Meetings

January 19

CDBG Program: The House Financial Services Committee’s Subcommittee on Oversight and Investigations will hold a hearing entitled “Ensuring Equitable Delivery of Disaster Benefits to Vulnerable Communities and Peoples: An Examination of GAO’s Findings of the CDBG Program.”

Capital Formation: The Securities and Exchange Commission’s Office of the Advocate for Small Business Capital Formation will host their third annual Capital Call.

January 20

Homelessness: The House Financial Services Committee’s Subcommittee on Housing, Community Development and Insurance will hold a hearing entitled “Ending Homelessness: Addressing Local Challenges in Housing the Most Vulnerable.”

Cryptocurrency: The House Energy and Commerce Committee’s Subcommittee on Oversight and Investigations will hold a hearing entitled “Cleaning Up Cryptocurrency: The Energy Impacts of Blockchains.”

For more information about financial services issues you may email [Joel Oswald](mailto:Joel.Oswald@williamsandjensen.com), [Mablet Makonnen](mailto:Mablet.Makonnen@williamsandjensen.com), or [Alex Barcham](mailto:Alex.Barcham@williamsandjensen.com).

ENERGY & ENVIRONMENT

Upcoming Hearings and Events

January 19

Energy Reliability: The House Energy and Commerce Committee’s Energy Subcommittee will hold a hearing titled “Securing our Energy Infrastructure: Legislation to Enhance Pipeline Security”. The Energy Subcommittee will discuss the “Energy Product Reliability Act” ([H.R. 6084](https://www.congress.gov/bills/116/6084)), legislation that would “require the Federal Energy Regulatory Commission to certify an Energy Product Reliability Organization which shall, subject to Commission review, establish and enforce energy product reliability standards...” Federal Energy Regulatory Commission (FERC) Chairman Richard Glick, and Deputy Secretary of Energy David Turk are expected to testify.

January 20

FERC Open Meeting: FERC will hold its monthly [open meeting](https://www.ferc.gov/open-meeting). The agenda includes: “Internal Network Security Monitoring for High and Medium Impact Bulk Electric System Cyber Systems”; and “Five-Year Review of the Oil Pipeline Index”.

Gulf of Mexico Oil and Gas Climate Impacts: The House Natural Resources Committee’s Subcommittee on Energy and Mineral Resources will hold a hearing titled “What More Gulf of Mexico Oil and Gas Leasing Means for Achieving U.S. Climate Targets”.

January 26

Great Outdoors Act: The Senate Energy and Natural Resources Committee will hold a [hearing](#) “to review the implementation of the Great American Outdoors Act.”

January 26-27

Environmental Justice: The White House Environmental Justice Advisory Council will hold a [virtual public meeting](#). The agenda includes “discussion and deliberation of draft recommendations to the Chair of the Council on Environmental Quality and the White House Interagency Council on Environmental Justice from the Justice40 Work Group, Climate and Economic Justice Screening Tool Work Group, and the Scorecard Work Group”.

February 2

Northeast Energy: The Energy Forum will hold a [virtual panel discussion](#) titled “The Evolving Northeastern Energy Mix, Challenges and Opportunities”.

February 16

Electric Transmission: FERC will hold a [meeting](#) of the “Joint Federal-State Task Force on Electric Transmission”. FERC established the Task Force on June 17, 2021, to “focus on topics related to planning and paying for transmission, including transmission to facilitate generator interconnection, that provides benefits from a federal and state perspective.”

February 28-March 1

Biofuels and Greenhouse Gases: The Environmental Protection Agency (EPA) will hold a “[Workshop on Biofuel Greenhouse Gas Modeling](#)”. The workshop is intended “to solicit information on the current scientific understanding of greenhouse gas modeling of land-based crop biofuels used in the transportation sector.” The workshop will develop information for a “range of current and future actions, including EPA’s methodology for quantifying the greenhouse gas emissions under the Renewable Fuels Standard.”

April 28

Winter-Readiness of Generating Units: FERC will hold a [Joint Technical Conference](#) with the North American Electric Reliability Corporation (NERC) concerning winter-readiness of generating units. The agenda includes discussion of “how to improve the winter-readiness of generating units, including best practices, lessons learned, and increased use of the NERC guidelines...”

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

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HEALTH

Supreme Court Splits on Vaccine Mandates

Key Point:

- *In a 5-4 decision, the Supreme Court lifted the stay on the Centers for Medicare and Medicaid Services vaccine mandate for health care workers putting the rule in effect nationwide.*
- *In a 6-3 decision, the Supreme Court granted an emergency stay halting the Occupational Safety and Health Administration vaccine mandate-or-test rule for large employers.*

On January 13, the Supreme Court issued orders for cases on both the Centers for Medicare and Medicaid Services (CMS) and the Occupational Safety and Health Administration's (OSHA) vaccine mandates. The Court split on the mandates, allowing the CMS rule to take effect nationwide while halting OSHA's mandate.

In a 5-4 decision, the Supreme Court allowed CMS to enforce its vaccine mandate for certain Medicare and Medicaid health care facilities nationwide. The mandate had already been in effect for half the country. The Court found CMS and the Department of Health and Human Services have a responsibility to ensure health care providers protect patients' health and safety and has previously required providers to comply with several other requirements. In a statement, CMS Administrator Chiquita Brooks-LaSure praised the Supreme Court's decision stressing "the prevalence of the virus and its ever-evolving variants in health care settings continues to increase the risk of staff contracting and transmitting COVID-19, putting their patients, families, and our broader communities at risk." The CMS mandate requires vaccinations for all those working in the identified facilities with limited exemptions for religious or medical reasons. Read more on the rule [here](#).

In a 6-3 decision, the Supreme Court halted OSHA's enforcement of its vaccine mandate for large employers nationwide. The Court found Congress had not given OSHA the authority to establish broad public health measures and the risk of COVID-19 is not a risk that workers encounter only by virtue of being at work. U.S. Department of Labor Marty Walsh expressed disappointment with the Court's ruling, calling it "a major setback to the health and safety of workers across the country." The OSHA mandate required employers of 100 or more employees to require employees to be either fully vaccinated or adhere to weekly testing and masking requirements. President Joe Biden called on states and individual employers to take steps to require workers to get vaccinated.

The opinions from the Supreme Court are available [here](#).

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

CYBERSECURITY & PRIVACY**Treasury Readying Cryptocurrency Broker Rules***Key Point:*

- *The Treasury Department is planning to issue preliminary guidance this month clarifying who will be considered a crypto broker under legislation that Congress passed last year.*

The Department of the Treasury announced it will issue preliminary guidance soon clarifying who will be considered a crypto broker to then be followed by a formal rule proposal. The provision on crypto brokers was included in the recently enacted Infrastructure Investment and Jobs Act (IIJA). It includes a range of disclosure requirements such as reporting customers' names and addresses, gross proceeds from sales, and any capital gains or losses to both. A bipartisan group of Senators have urged the Treasury Department to provide information or informal guidance as soon as possible.

FCC Chair Proposes Updating Data Breach Reporting Requirements*Key Point:*

- *FCC Chair Jessica Rosenworcel circulates a new proposal to update data breach reporting requirements.*

The Federal Communications Commission (FCC) Chairwoman Jessica Rosenworcel is exploring expanding consumer protections by increasing requirements for internet providers to report their security breaches. The [proposal](#) includes removing a current mandatory waiting period of seven business days for carriers to notify customers of a breach, building on current rules by adding notifications for inadvertent breaches, and requiring carriers to notify the FCC of their breaches, in addition to the FBI and the U.S. Secret Service.

White House Hosts Tech Summit to Discuss Open-Source Software Security*Key Point:*

- *Some of the largest technology firms met at the White House to discuss improving open-source software security following the Log4j vulnerability discovered in December 2021.*

The White House hosted a summit of major tech companies and federal agency representatives to identify ways to improve the security of open-source software and effectively support the open-source community. The discussion focused on preventing vulnerabilities in open-source code and packages, improving the process for finding and fixing flaws, and improving the response time for distributing and implementing patches. Participants included representatives of the Biden Administration, the Pentagon, the Department of Commerce, the Department of Energy, the Department of Homeland Security and its Cybersecurity and Infrastructure Security Agency (CISA), the National Institute of Standards and Technology, and the National Science Foundation. The private sector was represented by Akamai,

Amazon, Apache Software Foundation, Apple, Cloudflare, Facebook, GitHub, Google, IBM, the Linux Foundation, the Open-Source Security Foundation, Microsoft, Oracle, RedHat and VMware.

Government Cyber Rules to Be Updated by Congress

Key Point:

- *The House Oversight Committee held a hearing regarding increased enforcement of the Federal Information Security Management Act (FISMA).*

On January 11, the House Oversight Committee held a [hearing](#) titled “Cybersecurity for the New Frontier: Reforming the Federal Information Security Management Act”. Chairwoman Carolyn Maloney (D-NY) emphasized enforcement over Federal Information Security Management Act (FISMA) compliance. The FISMA rules that agencies are graded against have not been updated since 2015. The House Oversight Committee’s bipartisan [discussion draft](#) includes: pivoting from regular FISMA reports to digital monitoring, mandating higher-level reviews conducted by the Cybersecurity and Infrastructure Security Agency (CISA), requiring federal agencies to report major cyber breaches within 72 hours, and increased flexibility with smaller agencies with less resources. Proposed changes were encouraged by the former and current cyber officials who testified.

DOD University Consortium for Cybersecurity

Key Point:

- *The University Consortium for Cybersecurity focused on way the Department of Defense can support a pipeline of cybersecurity talent.*

The Department of Defense (DOD) held the [University Consortium for Cybersecurity](#) (UC2) hosted by the National Defense University’s College of Information and Cyberspace (CIC). Insights and recommendations were given for UC2 by David Frederick, executive director of Cyber Command; Marine Corps Lt. Gen. Dennis Crall; Joint Staff J6; and Heidi Shyu, Undersecretary of Defense for Research and Engineering and the Chief Technology Officer for the DOD. The focus of the event centered on diversity, academia, innovation, and support for the CIC program as a talent pipeline for the DOD.

Cyber Nominees Remaining

Five cyber related nominees are left to be decided. Alan Davidson was confirmed to lead the National Telecommunications and Information Administration (NTIA) on Wednesday, leaving three nominees waiting, and one undecided to round out cyber nominations. Laurie Locascio was renominated in 2022 to lead the National Institute for Standards and Technology (NIST) and Alan Estevez was nominated for the Bureau of Industry and Security, and is awaiting a Senate floor vote. Melissa Dalton’s nomination is pending in committee to be the Pentagon’s Assistant Secretary for Homeland Defense and Global

Security. The Energy Department's Cybersecurity Office remains unfilled, with the Administration deciding whether a career official or political appointee should fill the role.

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

TRADE

Blumenauer Legislation Would Exempt Goods Shipped from China and Other Non-Market Economies from De Minimis Benefits

Key Point:

- *House Ways and Means Trade Subcommittee Chair Earl Blumenauer (D-OR) is preparing to introduce legislation next week to exempt goods shipped from China and other non-market economies from the U.S. de minimis benefits.*

U.S. trade law has traditionally allowed low-value shipments to be exempted from duties, such as a package with an individual item. Last year, House Ways and Means Chairman Earl Blumenauer (D-OR) began gathering support for his 'Security and Fairness Act,' but delayed introducing it so there could be further discussion with stakeholders. Now, Chairman Blumenauer has stated he plans to introduce it next week. According to a fact sheet shared last year, the bill would prohibit "goods from non-market economies, such as China, from benefiting from de minimis treatment." The fact sheet also stated the Section 301 and 232 U.S. enforcement statutes are undercut when de minimis shipments are exempted from paying enforcement related duties. The proposal would also require Customs and Border Protection (CBP) collect more information on all de minimis shipments and prohibit importers who have been, "suspended or debarred from being able to use de minimis."

USMCA Utilized by All Parties in Upcoming Disagreements

Key Points:

- *Canada has officially announced they will join Mexico in calling for a panel under the U.S.-Mexico-Canada Agreement (USMCA) to resolve a dispute over the U.S.' interpretation of USMCA's rules of origin for automotive vehicles.*
- *Senate Finance Chairman Ron Wyden (D-OR) and Ranking Member Mike Crapo (R-ID) sent a letter to U.S. Trade Representative (USTR) Katherine Tai asking for more enforcement actions in areas they believe Canada and Mexico have fallen short.*

Mexico, Canada, and the U.S. each have concerns regarding how well the other parties are holding to the USMCA. On Thursday, January 13, Canada officially joined Mexico in requesting a panel to resolve the disagreement regarding the interpretation by the U.S. of the USMCA's rules of origin for automotive vehicles. New road vehicle communication (RVC) requirements for a vehicle to qualify for duty-free

treatment under USMCA have been raised under the previous North American Free Trade Agreement (NAFTA), which Mexico says led to negotiated key flexibilities. Mexico argues that components designated as originating should be considered 100 percent originating when calculating regional value content for vehicles overall. The U.S. argues that any foreign content in smaller components must be accounted for in the regional value calculations. The dispute settlement panel is expected to issue its report in the summer of 2022.

Senate Finance Chairman Ron Wyden (D-OR) and Ranking Member Mike Crapo (R-ID) sent a [letter](#) to USTR Katherine Tai discussing several areas of the USMCA agreement they believe Canada and Mexico have fallen short. These concerns, mostly aimed towards Mexico, range from labor reform to agricultural biotechnology in Mexico, to dairy, and a potential digital services tax in Canada. The Senators also noted they look forward to a future briefing from USTR Tai about their concerns and USTR's plans to address them.

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

This Week in Congress was written by Alex Barcham.