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Washington Update

This Week In Congress

House – The House passed the Build Back Better Act (H.R. 5376), an approximately $1.75 trillion budget reconciliation package. The bill will now go to the Senate for consideration. The House approved a resolution (H. Res. 789) to censure Representative Paul Gosar (R-AZ).

Senate – The Senate began consideration of the National Defense Authorization Act (H.R. 4350). The Senate confirmed Graham Steele to be Assistant Secretary of the Treasury, Jonathan Kanter to be Assistant Attorney General, Richard Trumka Jr. to be a Member of the Consumer Product Safety Commission, Willie Phillips Jr. to be a Member of the Federal Energy Regulatory Commission, Lee Satterfield to be Assistant Secretary of State, Charles Sams to be Director of the National Park Service, and Robert Bonnie to be Under Secretary of Agriculture.

Next Week In Congress

House – The House will be in recess and meet in pro forma session. The House is scheduled to reconvene on November 30.

Senate – The Senate will be in recess and meet in pro forma session. The Senate is scheduled to reconvene on November 29.

TAX

House Passes the Build Back Better Act by a Vote of 220-213 After the Full CBO Score Was Issued on Thursday

Key Points

- *The House voted in favor of final passage of the Build Back Better Act (H.R. 5376) on Friday morning by a vote of 220-213, after a marathon speech by Senate Minority Leader McCarthy (R-CA) in opposition to the bill.*
- *The CBO has released their score for the budgetary effects of the package, and the score shows that the bill will increase the deficit by at least $367 billion for the period 2022-2031.*

On Thursday, the CBO officially issued a score for the Ways and Means portion of the Build Back Better package (CBO Score for Ways and Means), as well as an overall score for the bill. The release of the remaining scores allowed the House to move forward on the Build Back Better Act (H.R. 5376). The CBO also issued an overall summary score for the entire Build Back Better package, and estimates that "enacting this legislation would result in a net increase in the deficit totaling $367 billion over the 2022-

2031 period, not counting any additional revenue that may be generated by additional funding for tax enforcement." The additional funds not counted toward the deficit would be the $207B in total revenues raised by IRS enforcement (as scored by CBO). By budget agreement, enforcement spending is not officially score-able.

After a marathon speech by House Republican Leader McCarthy (R-CA) opposing the legislation that pushed consideration past Thursday, on Friday morning the House passed the legislation by a vote of 220-213, sending the bill to the Senate.

Earlier this week, the Joint Committee on Taxation also released an analysis of the distribution of the tax changes in the bill on individuals – and found that the bill would provide a tax cut of over $500 to 86.7% of taxpayers earning between $500,000 and $1M, and that 68.1% of the taxpayers earning over $1M would receive a tax cut in excess of $500. This revelation may throw into jeopardy provisions in the bill surrounding the State and Local Tax (SALT) deduction, which Republicans have argued is a tax provision which compels lower tax red states to subsidize the high taxes of wealthy blue states on the coasts. It is not clear if the House's proposed $80,000 SALT cap will be included in the final Senate draft of the legislation. For example, Senators Sanders (I-VT) and Menendez (D-NJ) have proposed phasing-out SALT deductions back to $10,000 for taxpayers above $500,000 in annual income.

With the House voting to send the bill to the Senate, the Senate is expected to take up the bill as early as the week of December 6th after several "scrubs" to address possible Byrd Rule challenges which focus on provisions that are merely incidental to the revenue – i.e., policy provisions without significant revenue impacts. For example, provisions requiring union labor in the manufacture of the electric vehicles for bonus EV credits could come under scrutiny.

That timeline may be difficult since moderate Senate Democrats, such as Senator Manchin (D-WV), have expressed concern over several aspects of the bill, including long-term potential costs and other policy matters.

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

House Financial Services Republicans Release Principles for Central Bank Digital Currency; House Agriculture Committee Ranking Member Releases Draft Digital Commodity Legislation

Key Point:

- *The principles included: (1) address inefficiencies in the payment system; (2) stablecoins; (3) the private sector should lead the way; and (4) ensure privacy and security.*

- *House Agriculture Committee Ranking Member Glenn Thompson (R-PA) released a discussion draft of the Digital Commodity Exchange Act.*

On November 15, House Financial Services Committee Republicans released a document detailing their principles for Congress' evaluation of proposals for a central bank digital currency (CBDC). The principles are listed below.

Address Inefficiencies in the U.S. Payment System

Any consideration of a central bank digital currency should be done with the dual goal of maintaining 1) the U.S. dollar as the world's reserve currency and 2) the global preeminence of the U.S. payment system, including how a digital currency might remove inefficiencies in both U.S. and cross-border payments.

Stablecoins

Stablecoins hold promise as a potential cornerstone of a modern payment system, if issued under a clear regulatory framework. If Congress contemplates authorizing the use of a Fed-issued digital currency, it should not impede the development and utilization of stablecoins, both those currently in circulation and those yet to be developed.

Private Sector Must Lead the Way

Digital currency policies must promote private sector innovation and foster competition to ensure the United States maintains the world's leading payment system. Congress and regulators should recognize the unique nature of these innovations and establish a regulatory framework that targets the activity and not the technology.

Overly burdensome policies will diminish the potential gains to our financial system and put the U.S. at a disadvantage among our international competitors and allies alike.

Ensure Privacy and Security

The Federal Reserve cannot issue a digital currency without Congressional authority. If Congress contemplates authorizing the use of a Fed-issued digital currency, privacy and civil liberties protections must be evaluated in a manner consistent with currency transactions utilized today, and security protections must be addressed.

On November 16, House Agriculture Committee Ranking Member Glenn Thompson (R-PA) released a discussion draft of the Digital Commodity Exchange Act. Thompson is seeking feedback on the draft bill. A press release stated that the bill does the following:

Fills gaps between the Commodity Futures Trading Commission's (CFTC) and the Securities and Exchange Commission's (SEC) regulation of digital asset markets;

Creates a voluntary registration framework to regulate trading venues that list digital commodities such as Bitcoin for public trading;

Provides a regulated process for pre-sold digital commodities to become publicly available for trading without sacrificing protections for retail consumers, and;

Creates a voluntary registration framework to regulate the issuers of asset-backed stablecoins to ensure that issuers are known, accountable, and holding funds in the amount and manner promised.

House Financial Services Committee Approves SPAC, Mandatory Arbitration Bills

Key Points:

- *The Committee favorably reported bills to remove the SPAC safe harbor for forward-looking statements and enhance transparency around SPAC compensation structures.*
- *The Committee also approved a bill to prohibit broker-dealers, investment advisers, and issuers from including pre-dispute binding mandatory arbitration clauses in their customer agreements.*

On November 16, the House Financial Services Committee held a markup and approved six bills:

- The Credit Union Governance Modernization Act of 2021 (H.R. 2311), introduced by Representative Tom Emmer (R-MN). The bill would reform the process governing expulsion of Federal credit union members. The committee favorably reported H.R. 2311, as amended, by voice vote.
- The Investor Choice Act of 2021 (H.R. 2620), introduced by Representative Bill Foster (D-IL). The bill would prohibit broker-dealers, investment advisers, and issuers from including pre-dispute binding mandatory arbitration clauses in their customer agreements. The committee favorably reported H.R. 2620, as amended, by a vote of 27-23.
- The Holding SPACs Accountable Act of 2021 (H.R. 5910), introduced by Representative Michael San Nicolas (D-Guam). The bill would exclude a special purpose acquisition company (SPACs) from a safe harbor for forward-looking statements, subjecting SPACs to liability for making false or misleading forward-looking statements. The committee favorably reported H.R. 5910, as amended, by a vote of 27-23.
- The Fair Hiring in Banking Act (H.R. 5911), introduced by Representative Joyce Beatty (D-OH). The bill would expand employment opportunities at banks and credit unions by reducing barriers to employment based on past minor criminal offenses. The committee favorably reported H.R. 5911, as amended, by voice vote.
- The Protecting Investors from Excessive SPACs Fees Act of 2021 (H.R. 5913), introduced by Representative Brad Sherman (D-CA). This bill would authorize the SEC to require disclosures by SPACs. SPACs that do not provide the required disclosures and award high levels of promote—a type of a compensation arrangement—to the sponsor of the SPAC, would be

prohibited from having their securities marketed and sold to retail investors by financial professionals. The committee favorably reported H.R. 5913, as amended, by a vote of 29-23.

- The Empowering States to Protect Seniors from Bad Actors (H.R. 5914), introduced by Representative Josh Gottheimer (D-NJ). This bill would move the responsibility for administering the Senior Investor Protection Grant Program established the Dodd-Frank Act from the Consumer Financial Protection Bureau to the Securities and Exchange Commission. The bill would authorize $10 million annually for the program for Fiscal Years 2023-2028. The committee favorably reported H.R. 5914, as amended, by voice vote.

SEC Issues Final and Proposed Rules Regarding Proxy Voting

Key Points:

- *The SEC issued a final rule requiring the use of universal proxy cards in director election contests.*
- *The Commission also issued proposed amendments to the current rules governing proxy voting advice.*

On November 17, the Securities and Exchange Commission (SEC) held an open meeting and approved two items: (1) a final rule to adopt amendments to the proxy rules relating to the use of universal proxy cards and related disclosure in director elections; and (2) proposed amendments to the proxy rules governing proxy voting advice.

The SEC issued a fact sheet on the final rule on universal proxy cards, which provided the following summary:

> The Commission adopted final rules requiring the use of universal proxy cards by management and shareholders soliciting proxy votes for their candidates in director election contests. Under new Rule 14a-19, the universal proxy card must include all director nominees presented by management and shareholders for election at the upcoming shareholder meeting. To facilitate the use of universal proxy cards, the Commission amended the current proxy rules so each side can list the other side's director candidates on its universal proxy card. The new rules also establish new notice and filing requirements for all soliciting parties, as well as formatting and presentation requirements for universal proxy cards. In addition, the final rules require shareholders presenting their own director candidates in the contest to solicit holders of a minimum of 67 percent of the voting power of shares entitled to vote in the election. Registered investment companies and business development companies are not subject to the universal proxy rules.
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> The final rules establish new requirements for all director elections, including uncontested elections. They mandate that "against" and "abstain" voting options be provided on a proxy card where such options have legal effect under state law. The rules also require disclosure in the proxy statement about the effect of all voting options provided.

The SEC also issued a fact sheet on the proposed rule on proxy voting advice, which provided the summary below:

> The Securities and Exchange Commission (SEC) is proposing amendments to the current proxy rules governing proxy voting advice to enhance proxy advisory firms' ability to deliver independent proxy voting advice to their clients in a timely manner. The proposed amendments would address investor concerns about the current rules by removing certain conditions from the proxy rule exemptions for proxy voting advice and clarifying the scope of proxy advisory firms' liability for their advice.

Commissioner Hester Peirce opposed the universal proxy rule, arguing that while she supports the universal proxy concept, the rule "may facilitate changes to the company that advance special interests rather than enhancing corporate value by serving as a tool for frivolous, as well as serious, activists." Both Peirce and Commissioner Elad Roisman voted in opposition to the proxy vote advice proposal.

Senate Banking Holds Hearing on OCC Nomination

Key Points:

- *Republicans criticized Omarova's academic writing, citing a paper in which she stressed the need to "end banking as we know it."*
- *Democrats defended Omarova, contending that her positions and background were being distorted and mischaracterized.*

On November 18, the Senate Banking Committee held a hearing to consider the nomination of Dr. Saule Omarova to be Comptroller of the Currency. Much of the hearing focused on Omarova's previous statements regarding the structure of the banking system.

Chairman Sherrod Brown (D-OH) commended the Biden Administration for this historic nomination, stating that Omarova is one of the most qualified nominees ever for this role. He noted that Omarova served as an advisor at the Treasury Department under a Republican administration. Brown said some Republicans have worked with their "powerful friends" to "degrade" the nomination process. He suggested that the *Wall Street Journal* ran a "hit job" highlighting that Omarova went to Moscow State University. He said the article made outlandish claims and falsely accused her of want to bring communism to banking. He asserted that Omarova renounced her Kazakh citizenship and served the U.S. under President George W. Bush. Brown said Ranking Member Toomey "piled on" to these attacks and called on Omarova to submit a paper she was forced to write in college. He stated that Toomey put out a press release referencing Marx, Lenin, Moscow, and Russia, asserting that Toomey was attempting to make Omarova appear guilty by association. He said Republicans were attempting to distort the truth and undermine Omarova's loyalty to America.

Ranking Member Pat Toomey (R-PA) suggested that Democrats want to avoid a full hearing on Omarova's political views. He asserted that Omarova has a long history of promoting radical and socialist ideas. He stated that Omarova has said she wants to effectively end banking as we know it, noting that she released a plan for nationalizing retail banking last month in a paper called "The People's Ledger." He said in Omarova's plan central bank deposits would replace community bank accounts. He stated that Omarova also has a plan to control the money supply through these accounts, in which the government would take money out of people's accounts to contract the money supply. Toomey stated that Omarova has called for the Federal Reserve to control banking so that it can channel funding to "productive uses," noting that Omarova has said she wants fossil fuel companies to go bankrupt. He stated that Omarova has called for starving fossil fuel financiers of their sources of funding. Toomey stated that Omarova has a plan for the Federal Reserve to replace the free market in setting "systemically important prices." He contended that Omarova's views are too radical for her to be confirmed as Comptroller of the Currency.

Senator Mike Crapo (R-ID) asserted that Omarova has "radical" policy ideas, comparing her statements about blocking credit to "socially suboptimal industries" to Operation Choke Point. Senator Richard Shelby (R-AL) stated that he could not support Omarova's nomination.

Omarova defended her previous statements, asserting that they were part of academic debates and did not reflect how she would serve as Comptroller. She emphasized that her views were not socialist or communist, noting her own family's persecution under communism in Kazakhstan. She stressed that she believes in private allocation of capital and that banks should determine who they lend to, so long as they meet regulatory requirements to ensure they remain sound. She emphasized that she will follow the rules and the law as written.

Senator Jon Tester (D-MT) said Omarova has faced unfair attacks, but he has concerns about her views on bank regulation. He noted Omarova's opposition to the Economic Growth, Regulatory Relief, and Consumer Protection Act, which he helped write and which was signed into law in 2018. He said Omarova described the bill as weakening and dismantling regulation. He asked what Omarova opposed about this bipartisan legislation. Omarova said she testified to express her concern that the bill would inadvertently weaken the oversight of the largest banks which engage in high-risk trading operations. She stressed that she supports tailoring regulatory requirements and lightening regulatory burdens for smaller banks which do not engage in such activity.

Ranking Member McHenry Introduces Bipartisan Bill on Digital Asset Reporting Requirements

Key Points:

- *A bipartisan group, led by House Financial Services Committee Ranking Member Patrick McHenry (R-NC), introduced legislation to clarify the digital asset reporting requirements in the bipartisan infrastructure package.*

On November 18, House Financial Services Committee Ranking Member Patrick McHenry (R-NC) announced that he was introducing the Keeping Innovation in America Act, which is meant to address concerns with the digital asset reporting requirements of the recently enacted bipartisan infrastructure package. While a full list of cosponsors is not yet available, the bill has support from a bipartisan group of members, including Representatives Tim Ryan (D-OH), Ro Khanna (D-CA), Tom Emmer (R-MN), Eric Swalwell (D-CA), Warren Davidson (R-OH), Darren Soto (D-FL), Anthony Gonzalez (R-OH), Ted Budd (R-NC) and Kevin Brady (R-TX).

A fact sheet released by McHenry states "The Infrastructure Investment and Jobs Act, now law, includes digital asset reporting requirements that threaten to push innovators overseas and raise privacy concerns for law-abiding citizens." The fact sheet provides the following summary of the bill:

> The bipartisan, Keep Innovation in America Act, will:
>
> - Define "broker" to ensure only those who are actually in the business of brokering are required to report.
> - Clarify what information should be captured by a "broker" when transferring a digital asset to an account maintained by a non-broker.
> - Clarify Congressional intent in defining "digital asset."
> - Study the impact of expanding the definition of cash for reporting purposes.
>
> Bottom line: The Keep Innovation in America Act is the bipartisan fix to ensure digital asset reporting requirements under current law match the technology's operation. Congress must continue to work to bring legal and regulatory certainty to ensure these technologies and entrepreneurs continue to flourish here in the U.S.

Additionally, Senators Ron Wyden (D-OR) and Cynthia Lummis (R-WY) will be introducing legislation to narrow the scope of the cryptocurrency tax reporting rules in the bipartisan infrastructure bill. Wyden indicated that their bill "makes clear that the new reporting requirements do not apply to individuals developing blockchain technology and wallets."

SEC Issues Proposed Rules on Securities Lending Market Transparency, Electronic Recordkeeping Requirements

Key Point:

- *The SEC issued proposed rules to enhance securities lending transparency and update electronic recordkeeping requirements.*

On November 18, the SEC issued a proposed rule to increase the transparency and efficiency of the securities lending market. The proposed rule will be subject to a 30-day comment period. The SEC released a fact sheet which provided the following summary of the proposal:

> The Commission is proposing Exchange Act Rule 10c-1 to increase transparency and efficiency in the opaque securities lending market by requiring any person that loans a security on behalf of itself or another person to report certain material terms of those loans and related information regarding the securities the person has on loan and available to loan to a registered national securities association (RNSA), such as the Financial Industry Regulatory Authority.

> The proposed Rule would also require that the RNSA make available to the public certain information concerning each transaction and aggregated information on securities on loan and available to loan. The proposed Rule is consistent with Congress's mandate in the Dodd-Frank Act that the SEC increase transparency in the securities lending market.

The SEC also issued a proposed rule to update the electronic recordkeeping requirements for broker-dealers, security-based swap dealers, and major security-based swap participants. The proposed rule will be subject to a 30-day comment period. An SEC fact sheet provided the following summary of the proposal:

> The SEC's broker-dealer electronic recordkeeping rule was adopted in 1997. The current rule requires that records be preserved exclusively in a non-rewriteable, non-erasable format (otherwise known as write once, read many). This requirement may not be compatible with modern electronic recordkeeping systems. The proposed amendments are designed to modernize the rule and make it technology neutral to keep pace with innovations in electronic recordkeeping. The amendments also would enhance the electronic recordkeeping requirements for SBSDs and MSBSPs. Finally, the amendments would promote the Commission's investor protection function by facilitating inspections and examinations of broker-dealers, SBSDs, and MSBSPs.

Upcoming Hearings and Meetings

December 2
Insurance: The Treasury Department's Federal Insurance Office will hold a meeting of its Federal Advisory Committee on Insurance.

Investor Advisory Committee: The Securities and Exchange Commission will hold a meeting of its Investor Advisory Committee. The meeting will include a panel discussion on cryptocurrencies and digital assets, a panel on the SEC's role in addressing elder financial abuse issues, and a discussion of a recommendation regarding individual retirement accounts.

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

ENERGY & ENVIRONMENT

Senate Hearing Examines Energy Prices

Key Points:
- *On November 16, the Senate Energy and Natural Resources Committee heard testimony on energy prices.*
- *Discussion focused on cost increases for crude oil, gasoline, and natural gas.*

On Tuesday, the Senate Energy and Natural Resources Committee held a hearing "to examine the causes, outlook, and implications of domestic and international energy price trends."

In his opening statement, Chairman Joe Manchin (D-WV) acknowledged the rising energy prices across the globe. He noted that these are the same prices that bottomed out during the pandemic. He said the consumer price index (CPI) for energy increased by 30 percent over the last 12 months. Manchin stated that affordable, reliable, and dependable energy is what makes the U.S. a superpower. He highlighted the increased demand for oil and gas throughout the world. Manchin noted that global energy markets are becoming increasingly interconnected, with U.S. exports of Liquefied Natural Gas (LNG) reaching 9.8 billion cubic feet per day. He declared the 60 percent increase in gas prices is another major concern for consumers. He stated that domestic refiners continue to depend on imported crude oil, linking the U.S. to the Organization of the Petroleum Exporting Countries (OPEC) which does not have U.S. interests in mind. Manchin stressed the importance of pipelines that bring crude oil from allies such as Canada.

Ranking Member John Barrasso (R-WY), in his opening statement, criticized the President and congressional Democrats for pursuing inflationary spending policies. He said President Biden's "Build Back Better" bill is the exact opposite of what Congress should be doing to fight inflation. He asserted the bill surrenders U.S. energy independence and reinforces dependence on the "OPEC cartel." He recalled that "what Joe Biden did in Glasgow was beg OPEC+ to sell more energy and produce more oil for the United States to buy." He stated Americans have historically benefitted from the lowest energy prices in the industrialized world.

In his testimony, Energy Information Administration (EIA) Acting Administrator Stephen Nalley reported that the average price for crude oil has doubled in the past year. He stated heating bills for U.S. residents are likely to rise for all types of fuels, which is a result of global economies recovering from the pandemic. He noted that challenges remain before there is a full recovery in the energy sector. He projected global oil consumption to increase by five percent as world economies recover. Nalley predicted significant growth in oil production next year. He said the need for crude oil in the U.S. is returning to pre-pandemic levels. He told the Committee that as oil production increases, gasoline and diesel prices should begin to decline. He observed that international LNG prices are close to record highs and should continue to increase through the winter months. He stated U.S. natural gas inventories began the summer at lower levels but have recovered. He predicted that 36 percent of electricity this winter will be generated using natural gas.

Senator Angus King (I-ME) expressed concerns regarding the impact of U.S. LNG exports on domestic natural gas prices. He suggested that if exports were limited to a surplus, they would not be affecting prices. King warned that the path the U.S. is on "is going to be a disaster." He announced draft legislation that would "eliminate the presumption that the exportation of natural gas to certain nations is in the public interest."

EPA Proposes Changes to Renewable Fuel Standard Compliance Deadlines

Key Point:

- *On November 17, the Environmental Protection Agency issued a proposal to postpone compliance deadlines for implementation of the Renewable Fuel Standard.*

The Environmental Protection Agency (EPA) released the text of a Notice of Proposed Rulemaking (NPRM) titled "Renewable Fuel Standard (RFS) Program: Extension of Compliance and Attest Engagement Reporting Deadlines". As described in a summary, the NPRM would:

- "[E]xtend the RFS compliance deadline for the 2019 compliance year for small refineries only…[to] the next quarterly reporting deadline that is at least 60 days after publication of the 2021 RFS percentage standards in the Federal Register."
- "[E]xtend the RFS compliance deadline for the 2020 and 2021 compliance years for all obligated parties. The proposed 2020 compliance deadline is the next quarterly reporting deadline after the 2019 compliance deadline for small refineries and the proposed 2021 compliance deadline is the next quarterly reporting deadline after the 2020 compliance deadline."
- "For 2019, 2020, and 2021…extend the associated attest engagement reporting deadlines to the next June 1 annual attest engagement reporting deadline that is at least 60 days after the applicable 2019, 2020, and 2021 compliance deadline."
- "[C]hange the way in which future (2022+) RFS compliance and attest engagement reporting deadlines are determined."

The EPA will hold a webinar on the NPRM on December 2, 2021. Public comments are due by January 3, 2022.

In a statement, Growth Energy CEO Emily Skor called on the EPA "to release 2021 and 2022 [RFS renewable volume obligations] immediately." She declared that "delaying compliance deadlines for previous…years does nothing but contribute to ongoing uncertainty in the marketplace."

The refiners' trade association, the American Fuel and Petrochemical Manufacturers (AFPM), issued a statement calling the proposal "a commonsense administration decision." AFPM emphasized that "that compliance deadlines are simply the date by which [Renewable Identification Number] purchases must be made and proof of those purchases submitted to EPA."

Upcoming Hearings Events

November 30-December 2

Pipeline Safety Research and Development: The Pipeline and Hazardous Materials Safety Administration (PHMSA) will hold a "Pipeline Transportation: Hydrogen and Emerging Fuels R&D Public Meeting and Forum". The agenda includes: "Rehabilitation of Aging Cast Iron Pipelines"; "Integrity of Underground Natural Gas/Hydrogen Storage"; "Utilization of Inspection tools on

Hydrogen Pipelines"; "Hydrogen Network Components"; "Methane Mitigation – Construction and Operations"; and "Breakout Tanks – Methods to Prevent Corrosion of Tank Bottoms".

November 30-December 1
Methane Reduction Regulations: The Environmental Protection Agency (EPA) will hold a public hearing on a proposal to reduce methane pollution from existing sources in the oil and natural gas sector. As described by the EPA, the pending rulemaking would "lead to significant, cost-effective reductions in methane emissions and other health-harming air pollutants that endanger nearby communities".

December 7
NTSB Investigation of Offshore Pipeline Strike: The National Transportation and Safety Board (NTSB) will hold a virtual meeting to assess a "hazardous liquid pipeline strike and subsequent explosion and fire aboard dredging vessel Waymon Bond outside Corpus Christi, TX."

December 13
Environmental Management Advisory Board (EMAB): The Department of Energy will hold an open virtual meeting. The tentative agenda includes: "Reading of Public Comment"; "Remarks from EM leadership"; "EM Regulatory and Policy Affairs Update"; "Ethics Briefing for EMAB Members"; and "Board Business".

For more information about energy and environment issues you may email or call Frank Vlossak at 202-659-8201. Jackson Notes, Nicholas May, and Michael Murray contributed to this report. Updates on energy and environment issues are also available on twitter.

HEALTH

Agencies Releases Rule on Drug Price Reporting

Key Points:

- *The Departments of Health and Human Services, Labor, and Treasury and the Office of Personnel Management released an interim final rule requiring health insurance issuers, employer-based health plans, and other group plans to report prescription drug and health care costs.*
- *The agencies were directed to implement the rule as part of the implementation of the No Surprises and other transparency requirements that were included in the Consolidated Appropriations Act, 2021.*

On November 17, the Departments of Health and Human Services, Labor, and Treasury and the Office of Personnel Management released an interim final rule on "Prescription Drug and Health Care Spending." The rule was released in response to directives in the Consolidated Appropriations Act, 2021 (CAA) focused on improving transparency in health care costs.

Under this rule, plans and issuers on the group and individual markets are required to submit certain information on prescription drugs and other health care spending annually to the departments. The report must include general information on the plan, enrollment and premium information, and total health care spending broken down by type of cost. In addition, specific information on drugs must be included such as the 50 most frequently dispensed brand drugs, the 50 costliest drugs by total annual spending, and the 50 prescription drugs with the greatest increase in expenditure from the previous year. Information on prescription drug rebates, fees, and other remuneration must be reported along with the 25 drugs that yielded the highest amounts of rebates.

Under the CAA, plans and issuers are required to begin submitting the requested information by December 27, 2021, and submit information by June 1 of each year thereafter. The Departments announced they will exercise discretion and defer enforcement of the deadlines until December 27, 2022. Plans and issuers will be required to report 2020 and 2021 information by that later date.

Read the interim final rule here and a fact sheet here.

Cures 2.0 Released

Key Points:

- *Representatives Diana DeGette (D-CO) and Fred Upton (R-MI) introduced Cures 2.0.*
- *The bipartisan bill includes the creation of the Advanced Research Projects Agency for Health, help make new technologies available to patients sooner, increase access to telehealth, and provide for more diversity in clinical trials.*

On November 16, Representative Diana DeGette (D-CO) and Fred Upton (R-MI) released Cures 2.0, the next phase of the previously passed 21st Century Cures Act. The bill reflects previously sought input form stakeholders and already proposed bipartisan legislation.

One of the major provisions included in the bill is authorization for the Advanced Research Projects Agency for Health (ARPA-H) which would be housing with in the National Institutes of Health. ARPA-H was a high priority in President Joe Biden's FY 2022 budget proposal. The bill also authorizes the $6.5 billion requested by the Administration to run the agency for three years. ARPA-H would focus high-risk, high-reward projects to find cures and treatments for diseases like cancer, diabetes, and Alzheimer's.

In addition, the bill would also support research into the impacts of long COVID-19, help make new treatments and technologies available faster in Medicare, increase access to telehealth services, increase support and training for caregivers, improve diversity in clinical trials, and help ensure patients are better informed and part of the decision-making process for their treatment.

A copy of the text is available here and a section-by-section summary here.

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

TRADE

U.S. and Japan Launch Commercial and Industrial Trade Partnership

Key Point:

- *The U.S. and Japan have launched a partnership to pursue the Biden Administration's economic goals in Indo-Pacific region and address digital trade, in addition to other issues.*

U.S. Trade Representative (USTR) Katherine Tai, Japanese Minister of Economy, Trade and Industry Koichi Hagiuda, and Minister for Foreign Affairs Yoshimasa Hayashi announced a new U.S.-Japan partnership when Tai was in Tokyo this week. This partnership follows news that negotiations will begin to resolve tariffs on Japanese steel and aluminum that began during the Trump Administration in 2018. This partnership comes in hopes to engage other like-minded partners in pursuit of both countries shared objectives.

While some applaud this news, skepticism remains that this is not enough. Japan is part of the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP), and China has sought to join, while the U.S. is not a member. Tai will travel next to South Korea to co-chair a joint committee meeting of the U.S.-Korea Free Trade Agreement, followed by a stop in India to attend the Trade Policy Forum.

U.S. Begin Talks About Developing Indo-Pacific Framework

Key Point:

- *Biden Administration Cabinet-level officials began talks with allies in Asia this week to discuss a new Indo-Pacific economic framework.*

National Security Adviser Jake Sullivan and Commerce Secretary Gina Raimondo have announced the Biden Administration's economic framework plans for the Indo-Pacific region. Their plans extend further than other free trade deals like the CPTPP. The USTR named the issue areas of focus in this new partnership as third-party concerns, cooperation in regional and multilateral trade-related fora, addressing labor and environment-related priorities, a supportive digital ecosystem for all, trade facilitation, and other issues. Of note, in most U.S. concerns, 'third-country concerns,' is a reference to China.

The first series of meeting between the U.S. and Japan are scheduled to start in early 2022. Please find the full read out here.

House Speaker Nancy Pelosi (D-CA) and Senate Majority Leader Chuck Schumer (D-NY) Agree to Conference on the USICA

Key Point:

- *The deal between Speaker Pelosi and Leader Schumer on the U.S. Innovation and Competition Act (USICA) has been categorized as a "big step forward," by White House Press Secretary Jen Psaki.*

House Speaker Pelosi and Senate Majority Leader Schumer announced an agreement that they would go to conference to work out the differences between the House's and Senate's respective approaches on the China-related legislation, known as the U.S. Innovation and Competition Act (S. 1260) in the Senate. The USICA includes provisions to update trade laws, create new U.S. research and development programs for innovative technologies, and provide funding for domestic semiconductor manufacturing incentives as efforts to counter China. Specifically, in the Senate language was a Crapo amendment that included a significant number of trade measures, including:

- reauthorizes the Miscellaneous Tariff Bill (MTB) and an improved Generalized System of Preferences (GSP), and restarts and reforms the Section 301 product-exclusion process including reinstating expired exclusions and extending those through 2022;
- targets goods made with forced labor by strengthening our Customs and Border Protection (CBP) enforcement efforts, and through better use of the Seafood Import Monitoring Program (SIMP);
- targets anti-competitive digital trade and censorship practices like China's Great Firewall, by requiring the USTR to identify trading partners that disrupt digital trade;
- requires a review of trade and essential supplies, including the sources of imports and an analysis of any vulnerabilities, as well as additional tools for businesses in the United States seeking reliable suppliers;
- provides an inspector general to the USTR, and by ensuring the application of section 301 tariffs related to China are calibrated to provide the necessary leverage to support American competition while ensuring U.S. competitiveness in manufacturing;
- requires the USTR to initiate talks with the Quad countries to develop a strategy on critical minerals;
- requires CBP to submit a report to Congress on achieving supply chain transparency;
- requires the USTR to brief Congress on the findings of a forthcoming report by the Comptroller General of the United States related to the 301 exclusion process; and
- directs the USTR to enter into negotiations with allies to stop importation of goods made with stolen intellectual property into the U.S. and allied countries.

While the Senate passed the bill in June, the House has yet to consider the full bill and instead has been considering it in edited pieces. The trade measures have yet to be considered by House Ways and Means.

The announcement of this deal means the House and the Senate will conference to reconcile the differences between each version of the legislation. Each chamber must vote again to approve the final bill text before it is sent to President Biden to become law.

This announcement follows after Senate Republicans made it clear they would not allow Leader Schumer to attach the Senate-passed USICA to the National Defense Authorization Act (NDAA), which is pending on the Senate floor.

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

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