October 22, 2021

Washington Update

This Week In Congress

Senate – The Senate failed to invoke cloture on the Freedom to Vote Act (S. 2747). The Senate confirmed Catherine Elizabeth Lhamon to be Assistant Secretary of Education, as well as several judicial nominees.

House – The House passed the DHS Software Supply Chain Risk Management Act (H.R. 4611), the Strengthening America's Strategic National Stockpile Act (H.R. 3635), the Secure Equipment Act (H.R. 3919), the Open RAN Outreach Act (H.R. 4032), the Communications Security, Reliability, and Interoperability Council Act (H.R. 4067), the Information and Communication Technology Strategy Act (H.R. 4028), and the Providing Urgent Maternal Protections for Nursing Mothers Act (H.R. 3110). The House also passed a resolution to hold Steve Bannon in contempt of Congress.

Next Week In Congress

Senate – The Senate may consider the John R. Lewis Voting Rights Advancement Act (H.R. 4). The Senate will also continue its consideration of pending nominations, including Douglas Parker to be Assistant Secretary of Labor.

House –The House could potentially vote on the bipartisan infrastructure bill, the Infrastructure Investment and Jobs Act (H.R. 3684), and the reconciliation package, the Build Back Better Act, but no agreement has been reached as of yet and further delays could occur. The House may consider an additional short-term extension of expiring surface transportation programs.

TAX

Biden Administration Halts Plans to Impose Retaliatory Tariffs After Digital Tax Deal

Key Point:

- *The Biden Administration announced they plan to halt the imposition of tariffs on a number of European nations who have put in place digital services taxes aimed at American technology companies.*

On Thursday, United States Trade Representative (USTR) Tai announced plans to scrap the imposition of retaliatory tariffs on the European nations of Austria, France, Italy, Spain, and the United Kingdom, after those countries agreed to rescind their unilateral taxes on American technology companies. The decision comes after 136 countries agreed to a global tax regime being negotiated through the Organization for Economic Cooperation and Development (OECD). The first pillar of this agreement will allow countries to share a portion of taxes paid by multinational companies. In exchange for this part of the agreement the countries previously mentioned agreed to do away with their digital services tax once the OECD proposal is fully implemented. It is important to note that while the proposal is being implemented the digital services tax is expected to remain in place. However, the taxes U.S. companies pay during this time period will be credited towards future tax payments under the terms of this deal.

One codicil is to note there remains some skepticism about the U.S. Senate agreeing by a 2/3 vote to a multilateral tax treaty many believe would be needed to implement Pillar One and ceding taxation authority among nations. That issue remains unresolved for now and likely some time.

Reconciliation Discussions Remain Ongoing

Key Point:

- *Reconciliation discussions remain ongoing as the Administration meets with progressive and moderate members of the Democratic party.*
- *All sides signaled momentum after meetings earlier this week, though late this week acknowledging Senator Sinema's opposition to raising the top corporate tax rate has led to a scramble to replace such revenue with other corporate taxes.*

Earlier this week President Biden held two meetings concerning the reconciliation package at the White House. The first meeting consisted of members of House and Senate Democrats who are considered to be in the more moderate wing of their party and the second meeting consisted of House and Senate Democrats who encompass the progressive wing of their party. It is also important to note that House Progressive Caucus Chair Representative Jayapal (D-WA) acknowledged in response to a media question that the size of a reconciliation bill will be in the "$1.9 - $2.2 trillion range." However, Senator Manchin (D-WV), a key swing vote in the Senate was on the record as early as last week saying he would like to see a package around $1.5 trillion. It remains unclear as to the specifics of the package which will need to be cut to shave the bill down to size. It was reported earlier this week the President Biden told House Progressive Caucus members that free community college proposals have been eliminated and that the Administration is also exploring extend the enhanced Child Tax Credit (CTC) for a single year rather than making the provision permanent. Senator Manchin (D-WV) has also pushed to make this program means tested and many experts close to the negotiations believe this provision could be included in the scaled down version of the legislation. It is important to note that President Biden assured members of the Progressive Caucus that a provision to expand Medicare to cover dental, vision, and hearing benefits would still be included in the final package. The final timing of when Democrats plan to move this package forward remains unclear but Democrats on Capitol Hill have taken it as an encouraging sign that the Administration has been speaking to both progressive and moderate members of their own party.

On Friday morning, following a meeting with President Biden, Speaker Pelosi told reporters she is "very optimistic" about reaching an agreement on the reconciliation package. The Office of the House Majority Leader released an updated floor schedule, which notes "the House will aim to consider the bipartisan Infrastructure Investment and Jobs Act and the Build Back Better Act this work period."

In the last day or two, Senator Sinema's (D-AZ) firm objection to raising the top corporate tax rate has resulted in acknowledgements from the President and others that alternative ways to raise corporate taxes would be needed. Reports suggest Senator Sinema has offered offsets in corporate, individual and international areas sufficient to offset the package (or at least enough of it).

Proposals to impose (or reimpose) a minimum tax on corporations are being considered, as well as other proposals like increasing enforcement broadly, applying an excise tax to stock buybacks are being revisited; and likely other curbs on deductions and credits might be considered on both companies and individuals. Taxing unrealized gains by wealthy taxpayers also could be considered. Congressional Democrats are coming to see that Senators Manchin and Sinema are very serious about what parameters they have offered, though pressure will continue to be brought by progressives who are upset with the limits suggested.

Changing potential offsets from the Neal bill that has been drafted and scored and/or revisiting proposals from the Treasury Green Book and elsewhere will take time, these proposals have not all be fully scoped out and will need to be vetted. That fact suggests this process could go on well into the coming months despite the increased pace of the last week.

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

SEC Releases Report on GameStop and Meme Stock Events

Key Points:

- *The report calls for additional analysis regarding broker trading restrictions, digital engagement practices, payment for order flow, trading in dark pools and through wholesalers, and shortselling.*
- *Commissioners Peirce and Roisman issued a statement criticizing the report.*

On Monday, the SEC released its "Staff Report on Equity and Options Market Structure Conditions in Early 2021." In its conclusion, the report identifies four "additional areas for potential study and further consideration in the interests of protecting investors, maintaining fair, orderly, and efficient markets, and facilitating capital formation."

> 1. Forces that may cause a brokerage to restrict trading. A number of clearing brokers experienced intraday margin calls from a clearinghouse. In reaction, some broker-dealers decided to restrict trading in a limited number of individual stocks in a way that some investors may not have anticipated. This episode highlights the integral role clearing plays in risk management for equity trading, but raises questions about the possible effects of acute margin calls on more thinly-capitalized broker-dealers and other means of reducing their risks. One method to mitigate the systemic risk posed by such entities to the clearinghouse and other participants is to shorten the settlement cycle.
>
> 2. Digital engagement practices and payment for order flow. Consideration should be given to whether game-like features and celebratory animations that are likely intended to create positive feedback from trading lead investors to trade more than they would otherwise. In addition, payment for order flow and the incentives it creates may cause broker-dealers to find novel ways to increase customer trading, including through the use of digital engagement practices.
>
> 3. Trading in dark pools and through wholesalers. Much of the retail order flow in GME was purchased by wholesalers and executed off exchange. Such trading interest is less visible to the wider market—and payments to broker-dealers may raise questions about the execution quality investors receive. Further, though wholesalers increasingly handle individual investor order flow, they face fewer requirements concerning their operational transparency and resiliency as compared to exchanges or ATSs.
>
> 4. Short selling and market dynamics. While short selling and calls on social media for short squeezes received a great deal of media attention, the interplay between shorting and price dynamics is more complex than these narratives would suggest. Improved reporting of short sales would allow regulators to better track these dynamics."

Commissioners Hester Peirce and Elad Roisman issued a statement raising concerns with the report, in which they asserted:

> While the report includes an interesting account of the events, it does not appear that many conclusions can be drawn from the data. This report should have been an anodyne report on the events of earlier this year and, if evident from the data, an assessment of the causes of those events. Surprisingly, the report turned into an account of those events awkwardly intertwined with discussions of market practices and policies that mirror Commission-level conversations unrelated to the specifics of January's events. Including these discussions distracts rather than informs our understanding of the meme stock episode.

Senate Banking Committee Holds Hearing on Sanctions Policy

Key Point:

- *The hearing focused on the Treasury Department's review of U.S. sanctions policy.*

On October 19, the Senate Banking Housing and Urban Affairs Committee held a hearing entitled "International Policy Update: The Treasury Department's Sanctions Policy Review and Other Issues." The Committee received testimony from Treasury Deputy Secretary Wally Adeyemo. In his testimony, Adeyemo noted Secretary Yellen's request to review the Department of Treasury's use of sanctions over the past 20 years. He stressed that, when possible, the U.S. should use sanctions in coordination and collaboration with allies. He expressed support for multilateralism when enforcing sanctions, combating climate change, defeating COVID-19, securing critical supply chains, and countering China's unfair practices. He also noted the Department of Treasury must modernize its sanctions infrastructure, technology, and workforce to adapt to evolving threats from cybercriminals and ransomware.

Chairman Sherrod Brown (D-OH) said the U.S. is working with its allies to get aid to the people of Afghanistan despite existing sanctions against the Taliban. He stated there are bipartisan principles that guide sanctions, and he emphasized the U.S. should impose sanctions on a multilateral basis because they are more effective. He stressed that preserving and strengthening humanitarian exceptions and licenses are important to ensure that people do not suffer from food or medicine shortages because of U.S. sanctions. He acknowledged that for sanctions to be effective, they must have clear goals and targets so that sanctioned countries understand how to free themselves from sanctions. Brown said the U.S. must do a better job at assessing the effectiveness of sanctions and communicating that information to the banks carrying out these sanctions. He emphasized that the executive branch must continue to support and fund the workers and agencies who implement sanctions.

Ranking Member Patrick Toomey (R-PA) said under the Biden Administration, the Department of the Treasury has advanced several international policies that circumvent Congress. He stressed that the Biden administration has repeatedly failed to comply with mandatory sanctions laws, and he stated the administration has offered sanction relief to Iran in hopes they will reenter the Joint Comprehensive Plan of Action (JCPOA). He highlighted an International Energy Agency (IEA) report, which found that Iran has doubled the amount of crude oil it is selling to China over the past year, and he emphasized this is in violation of U.S. sanctions. He expressed concern that the Biden Administration has refused to impose congressionally required sanctions on the Chinese buyers of the Iranian oil. He said the Biden administration has also ignored the Countering America's Adversaries Through Sanctions Act (CAATSA) (P.L. 115-44), as it is not enforcing sanctions on the Nord Stream 2 pipeline. Toomey expressed concern that the Biden administration might try to pass an Organization for Economic Cooperation and Development (OECD) international tax agreement without Senate approval. He said the tax agreement would allow foreign countries to tax American companies based on the American companies' sales overseas. He called this a tax revenue transfer from the U.S. to foreign countries. He noted this tax agreement also sets a 15 percent global minimum tax on multinational corporations, and he reiterated his concerns over the possibility that other countries will not impose the global minimum tax if this proposal is not implemented properly. He said the Financial Stability Oversight Council (FSOC) climate risk report will likely claim that global warming poses a systemic risk to the financial system. He noted that economist John Cochrane said major weather events have never come close to causing systemic financial risk.

Senate Appropriations Committee Releases FY2022 Financial Services Funding Bill

Key Point:

- *The bill would increase the budget for the SEC by $74 million over the FY2021 enacted level.*

On October 18, the Senate Appropriations Committee released its remaining Fiscal Year (FY) 2022 funding bills, including the Financial Services and General Government (FSGG) bill. The FSGG bill would provide a total of $29.394 billion, which is $4.777 billion more than the FY2021 enacted level and $154 million less than the President's budget request. The Committee released the text, explanatory statement, and summary of the bill.

Notably, the bill would provide:

- $1.815 billion for the Treasury Department (not including the IRS), which is $265 million more than the FY2021 enacted level and $27 million less than the President's budget request.
- $1.999 billion for the Securities and Exchange Commission (SEC), which is $74 million more than the FY2021 enacted level and the same as the President's budget request.
- $384 million for the Commodity Futures Trading Commission (CFTC), which is $80 million more than the FY2021 enacted level and $10 million less than the budget request.

Senate Banking Committee Holds Hearings on Private Equity

Key Point:

- *Senator Elizabeth Warren (D-MA) introduced legislation to increase regulatory oversight of private equity.*

This week, the Senate Banking Committee held a pair of hearings focused on the private equity industry. On Wednesday, the Subcommittee on Economic Policy held a hearing entitled "Protecting Companies and Communities from Private Equity Abuse." The hearing focused on the Stop Wall Street Looting Act, introduced by Subcommittee Chairwoman Elizabeth Warren (D-MA). According to a summary, the bill would: (1) "require private investment funds to have skin in the game"; (2) "end looting of portfolio companies"; (3) "protect workers, customers, and communities"; (4) "empower investors by increasing transparency"; and (5) "require risk retention". Chairwoman Warren heavily criticized the private equity industry, stating that private equity managers "profit hugely," while workers, local businesses, and communities come out as losers. She said she conducted an investigation which found that the private equity industry is fundamentally broken. She stated that private equity relies on a business model which pays managers to go after short-term profits and charge huge fees as they destroy the long-term prospects of the businesses they buy.

Ranking Member John Kennedy (R-LA) stated that he considers private equity to be a central part of the free enterprise system. He said a private equity investment is essentially just a transaction between a willing buyer and a willing seller. He stated that private equity is limited to sophisticated, accredited investors. He noted that he previously served as a state Treasurer, asserting that private equity is an important investment for retirement systems. He described himself as "pro private equity," and opposed to "neo socialism."

On Thursday, the full committee held a hearing on "How Private Equity Landlords are Changing the Housing Market." Chairman Sherrod Brown (D-OH) criticized the private equity industry, particularly their targeting of manufactured housing communities. He explained the average family in a manufactured housing community has an average income of $35,000. He noted after these private equity firms acquired these communities, they began changing terms and conditions and raising rents for the tenants who could least afford to pay. He stated private equity has a strategy of buying up companies then laying off workers. He stressed the Wall Street system is not set up to prioritize long term investments and it is designed to target quick profits. Ranking Member Patrick Toomey (R-PA) stated he was puzzled by the hearing's topic because it seems to unnecessarily target people who use their own money to buy and build as little as 1 percent of the single-family housing market. He stressed private ownership of homes is vastly preferable to state ownership of homes. He explained there is nothing wrong with people putting their money to work by investing in homes and he noted if Democrats are worried about investors crowding out home buyers, they should agree taxpayers should not subsidize loans to investors.

FSOC Releases Report on Climate-Related Financial Risk

Key Point:

- *The FSOC identified climate change as a threat to financial stability for the first time.*
- *The report includes recommendations in four areas: building capacity, closing data gaps, enhancing climate-related disclosures, and assessing and mitigating climate-related risks to financial stability.*

On October 21, the Financial Stability Oversight Council (FSOC) held an open meeting and voted to release its report on climate-related financial risk. FDIC Chairman Jelena McWilliams abstained from voting on the report, expressing concern that the report is premised on conclusions that require more thorough analysis.

FSOC Chair and Treasury Secretary Janet Yellen emphasized the importance of the report, noting that for the first time the FSOC was recognizing that climate change poses a risk to financial stability. She stated that it was an important first step, but was by no means the end of their work. She said the Dodd-Frank Act (DFA) gave the FSOC a duty to respond to emerging threats to the stability of the U.S. financial system. She said FSOC was recognizing a unique risk to the entire planet. She suggested that as climate change intensifies it could trigger declines in asset values and financial activity, particularly if risks are not appropriately measured and mitigated. She emphasized that the response to climate change needs to begin immediately to support the transition to a net zero economy. **Yellen** said the report makes recommendations on how member agencies can respond to both physical and transition risks. She noted that the report includes more than 30 specific recommendations across several areas: (1) assessing climate risks, including through scenario analysis, and whether regulations and guidance need to be updated; (2) enhancing climate-related risk disclosures; (3) enhancing climate-related data; and (4) building capacity.

The Council released a fact sheet providing additional details on the recommendations:

> **Building Capacity and Expanding Efforts to Address Climate-related Financial Risks.** The Council recommends that its members prioritize internal investments to expand their respective capacities to define, identify, measure, monitor, assess, and report on climate-related financial risks and their effects on financial stability. This should include investments in staffing, training, expertise, data, analytic and modeling methodologies, and monitoring. The Council also recommends that its members enhance public communication of climate-related efforts, including in annual reports and any relevant risk reports they publish.
>
> **Filling Climate-related Data and Methodological Gaps.** The Council recommends that its members promptly identify and take the appropriate next steps towards ensuring that they have consistent and reliable data to assist in assessing climate-related risks. Members should perform an internal inventory of currently available data and develop plans for acquiring necessary additional data through data collection, data sharing, or data procurement. FSOC members should also develop consistent data standards, definitions, and relevant metrics, and coordinate as they identify and fill data gaps and address data issues.
>
> **Enhancing Public Climate-related Disclosures.** The Council recommends that its members review their existing public disclosure requirements and consider updating them to promote the consistency, comparability, and decision-usefulness of information on climate-related risks and opportunities. The Council also recommends that FSOC members issuing requirements for climate-related disclosures consider whether such disclosures should include disclosure of greenhouse gas emissions, as appropriate and practicable, to help determine exposure to material climate-related financial risks. In addition, FSOC members should evaluate standardizing data formats for public climate risk disclosures to promote comparability.
>
> **Assessing and Mitigating Climate-related Risks to Financial Stability.** The Council recommends that its members use scenario analysis as a tool for assessing climate-related financial risks. The Council also recommends that its members should consider using common scenarios that build on existing work, including scenarios developed by the Network of Central Banks and Supervisors for Greening the Financial System and work at the Financial Stability Board.
>
> The Council also recommends that its members should review existing regulations, guidance, and regulatory reporting relevant to climate-related risks, including credit risks, market risks, counterparty risks, and other financial and operational risks, to assess whether updates are necessary to appropriately address climate-related financial risks. FSOC members should also evaluate whether additional regulations or guidance specific to climate-related risks is necessary to clarify expectations for regulated or supervised institutions regarding management of climate risks, taking into account an institution's size, complexity, risk profile, and existing enterprise risk management processes.

Senate Banking Committee Ranking Member Patrick Toomey (R-PA) issued a statement criticizing the report, in which he asserted:

> I have yet to see any evidence to support FSOC's audacious claim that global warming is a legitimate threat to bring down the entire global financial system. The real risk here is of a political nature. This could open the door to unelected, unaccountable financial regulators misusing their powers to choke off capital to energy companies and weaken the economy. As Europeans can tell us, such regulatory overreach causes brownouts, higher electric bills for consumers and manufacturers, and a standard of living that will be lower than it otherwise would.
>
> If the Biden administration thinks it can change the Earth's temperature, it should ask Congress—which is accountable to the American people—to change our laws. Continuing down a path of misusing financial regulation to achieve liberal policy objectives sets a very dangerous precedent.

Upcoming Hearings and Meetings

October 25

Global Markets Advisory Committee: The CFTC will hold a meeting of its Global Markets Advisory Committee. The agenda for the meeting includes presentations regarding the recent stresses in the U.S. Treasury market and proposals for Treasury market reforms to mitigate against future stresses. The GMAC will also hear presentations related to the implementation of recent Dodd-Frank Act reforms, including issues related to (1) swap data reporting; (2) uncleared margin; and (3) swap dealer capital substituted compliance.

October 26

China: The House Financial Services Committee's Subcommittee on Investor Protection, Entrepreneurship and Capital Markets will hold a hearing entitled, "Taking Stock of 'China, Inc.': Examining Risks to Investors and the U.S. Posed by Foreign Issuers in U.S. Markets."

Nominations: The Senate Banking Committee will hold a hearing to consider the nominations of Ms. Reta Jo Lewis, to be President of the Export-Import Bank; and Ms. Elizabeth de Leon Bhargava, to be an Assistant Secretary of Housing and Urban Development.

Nominations: The Senate Finance Committee will hold a hearing to consider the following nominations: Maria L. Pagan, to be a Deputy United States Trade Representative (Geneva Office); Brent Neiman, to be Deputy Under Secretary of the Treasury for International Finance and Development; Joshua Frost, to be Assistant Secretary of the Treasury for Financial Markets, and Samuel R. Bagenstos, to be General Counsel at the Department of Health and Human Services.

October 27

CFPB: The House Financial Services Committee will hold a hearing entitled "Bringing Consumer Protection Back: A Semi-Annual Review of the Consumer Financial Protection Bureau."

CFTC Nomination: The Senate Agriculture Committee will hold a hearing on the nomination of Rostin Behnam to be Chairman and a Commissioner of the Commodity Futures Trading Commission.

October 28
CFPB: The Senate Banking Committee will hold a hearing regarding "The Consumer Financial Protection Bureau's Semi-Annual Report to Congress."

Asset Management Advisory Committee: The SEC will hold a meeting of its Asset Management Advisory Committee. The meeting will include a discussion of matters in the asset management industry relating to the Evolution of Advice and the Small Advisers and Small Funds Subcommittees, including panel discussions and potential recommendations.

November 3
Asset Management Advisory Committee: The SEC will hold a meeting of its Asset Management Advisory Committee. The meeting will include a discussion of matters in the asset management industry relating to the Evolution of Advice and the Small Advisers and Small Funds Subcommittees, including potential recommendations.

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

ENERGY & ENVIRONMENT

FERC, DOE, and National Park Service Nominees Testify

Key Points:
- *A trio of Biden Administration nominees appeared before the Senate Energy and Natural Resources Committee on October 19.*
- *The nominees would take leadership roles at the Federal Energy Regulatory Commission, the National Park Service, and the Department of Energy's Office of Fossil Energy and Carbon Management.*
- *Following the hearing, Committee Chairman Joe Manchin (D-WV) expressed confidence that the Senate will vote to confirm the three nominees.*

On Tuesday, the Senate Energy and Natural Resources Committee heard from Biden Administration nominees to the Federal Energy Regulatory Commission (FERC), the Department of Energy's Office of Fossil Energy and Carbon Management (FECM), and the National Park Service (NPS).

Willie Phillips, nominee to be a Member of FERC, told the Committee that any utility commission needs three goals: (1) affordability; (2) reliability; and (3) sustainability. He emphasized making U.S. infrastructure resilient as the effects of climate change challenge the reliability of the grid. He noted his first-hand knowledge of the importance of affordable energy. Phillips currently serves as the Chairman of the Public Service Commission of the District of Columbia. President Biden announced Phillips' nomination on September 9. If confirmed by the Senate he would fill the slot on the five-member Commission vacated by former Commissioner Neil Chatterjee on August 30.

Brad Crabtree, nominee to be Assistant Secretary of Energy at the Office of Fossil Energy and Carbon Management, told the Committee that carbon management has been a principal focus of his work. He commented on the role states must play in developing carbon capture. He said the U.S. must lead in developing technologies to curb climate change while maintaining energy reliability and affordability.

The Biden Administration renamed the Office of Fossil Energy the "Office of Fossil Energy and Carbon Management". The Office's mission included "Federal research, development, and demonstration efforts on advanced power generation; power plant efficiency; water management; carbon capture, utilization, and storage (CCUS) technologies; and emission control technologies, as well as the development of technological solutions for the prudent and sustainable development of…unconventional oil and gas domestic resources." The Office also manages the U.S. Strategic Petroleum Reserve (SPR) and reviews applications to authorize the export of natural gas. President Biden announced Crabtree's nomination on September 2. He currently serves as the Vice President for Carbon Management at the Great Plains Institute.

Charles Sams III, nominee to be Director of the National Park Service (NPS), told the Committee the NPS is a special agency with a timeless mission. He emphasized his commitment to focus on staffing and other management issues currently facing the NPS.

The White House announced Sams' nomination on August 18. He serves on the Northwest Power and Conservation Council and has served as Executive Director of the Confederated Tribes of the Umatilla Indian Reservation.

In questioning Philips, Chairman Joe Manchin (D-WV) asked whether it is in the country's best interest to remain energy independent. Phillips replied in the affirmative. He said he believes in an "all of the above" energy strategy. He added that he understands FERC is an economic regulator and that they do not "pick winners and losers". Phillips also told the Committee he wants to do everything he can to continue to push innovation forward. Manchin asked Phillips for his thoughts on the transition towards renewable energy and permitting pipelines to ensure the delivery of energy. Phillips said that there are "efficiencies that can be had with regard [to the FERC] pipeline certification" process. Manchin emphasized the environmental benefits of capturing and transporting methane that might otherwise be flared. He asked what mix of energy is needed for the U.S. to remain energy independent. Crabtree said the U.S. must "first and foremost ensure energy affordability, availability and reliability." He noted that the Office of Fossil Energy and Carbon Management has a significant role to play. He also stressed the need to "decarbonize" the industrial sector.

Ranking Member John Barrasso (R-WY) contended that the Administration's policies promote a "multi-year, multi-trillion-dollar windfall", for Russia, Iran, and other nations. He asked Crabtree how he will work to ensure that the Administration does not "help America's enemies". Crabtree replied that he is a "supporter of an all-of-the-above low-and zero carbon energy agenda." He added that he "will be committed to advancing that agenda in the context of the Office of Fossil Energy and Carbon

Management." Crabtree also reiterated the importance of addressing industrial sector emissions. He declared that "we have an opportunity to accomplish our energy security objectives…to support our allies…with our energy exports, and at the same time to reduce emissions here at home and through those exports [which] provide a lower carbon energy products overseas."

PHMSA Provides Updates on Pipeline Safety Regulations and Policy

Key Points:

- *On Wednesday the Pipeline and Hazardous Materials Safety Administration convened its two advisory committees on pipeline safety.*
- *The meeting included discussion on a variety of policy issues affecting oil and natural gas pipelines, including pending pipeline safety rulemakings, implementation of the "PIPES Act of 2020", cybersecurity, and research and development.*

On October 20, the Pipeline and Hazardous Materials Safety Administration (PHMSA) held a meeting of its Gas Pipeline Advisory Committee (GPAC) and its Liquid Pipeline Advisory Committee (LPAC). The agenda included:

- "Update Orange County CA Oil Spill";
- "Regulatory Update";
- "Research and Development";
- "Pipeline Cyber Security Issues";
- "Implementation of Section 114 of the 2020 PIPES Act"; and
- "2020 PIPES Act".

In his remarks, PHMSA Acting Administrator Tristan Brown outlined the agency's priorities, which include advancing the Biden Administration's "Build Back Better" agenda, enhancing safety, addressing climate change, and supporting equity.

In providing an update on pending regulations, John Gale, PHMSA Director, Standards and Rulemaking, reported that four final rules are expected to be published "in the next couple months": Safety of Gas Gathering Pipelines; Safety of Gas Transmission Pipelines: Discretionary Integrity Management Improvements; Valve Installation and Minimum Rupture Detection Standards; and Coastal Ecological Unusually Sensitive Areas.

There was extended discussion regarding PHMSA's implementation of Section 114 of the "Protecting our Infrastructure of Pipelines and Enhancing Safety (PIPES) Act of 2020", which established a self-executing mandate on pipeline operators to revise their inspection and maintenance plans to address methane leak detection and repairs.

Timothy Gaither, PHMSA Director for Preparedness Issues, Emergency Support, and Security, and Scott Gorton Executive Director, Surface Policy, Plans, and Engagement, Transportation Security

Administration (TSA) discussed pipeline cybersecurity issues, including the TSA's recent pipeline cybersecurity orders.

Upcoming Hearings Events

October 26
Transportation Cybersecurity: The House Homeland Security Committee's Cybersecurity, Infrastructure Protection, and Innovation Subcommittee and Transportation and Maritime Security Subcommittee will hold a hearing titled "Transportation Cybersecurity: Protecting Planes, Trains, and Pipelines from Cyber Threats". Scheduled witnesses are: Suzanne Spaulding, Senior Advisor, Center for Strategic and International Studies, and former Under Secretary for the National Protection and Programs Directorate, Department of Homeland Security; Patty Cogswell, Strategic Advisor, Guidehouse, and former Deputy Administrator, Transportation Security Administration; Jeffrey Troy, President and CEO, Aviation Information Sharing and Analysis Center, and former Deputy Assistant Director for Cyber National Security and Cyber Criminal Investigations, Federal Bureau of Investigation; and Scott Dickerson, Executive Director, Maritime Transportation System Information Sharing and Analysis Center (MTS-ISAC).

October 27
Critical Energy Infrastructure: The Senate Homeland Security and Governmental Affairs Committee's Subcommittee on Government Operations and Border Management will hold a hearing on "Strategies for Improving Critical Energy Infrastructure". Scheduled witnesses are: Alex Herrgott, President and Chief Executive Officer, The Permitting Institute; Bryce Yonker, Executive Director and Chief Executive Officer, Grid Forward; N. Levi Esquerra, Senior Vice President for Native American Advancement and Tribal Engagement, University of Arizona; Lanny Nickell, Executive Vice President and Chief Operating Officer, Southwest Power Pool; and Robert Bryce, Author, Journalist, and Public Speaker.

October 28
Oil Companies and Climate Change: The House Committee on Oversight and Reform will hold a hearing titled "Fueling the Climate Crisis: Exposing Big Oil's Disinformation Campaign to Prevent Climate Action".

Regulation of Chemicals: The House Energy and Commerce Committee's Environment and Energy Subcommittee will hold a hearing titled "TSCA and Public Health: Fulfilling the Promise of the Lautenberg Act".

October 28
Secretary of Energy Advisory Board: The Department of Energy will hold an open meeting of the Secretary of Energy Advisory Board (SEAB).

November 16

Green Buildings: The General Services Administration (GSA) will hold a public meeting of the Green Building Advisory Committee. The agenda includes: environmental justice, federal building decarbonization, energy storage, and public comments.

November 10

Environmental Justice: The Environmental Protection Agency (EPA) will hold a meeting of the National Environmental Justice Advisory Council (NEJAC). The agenda includes "providing information and receiving NEJAC feedback regarding the environmental justice and civil rights compliance elements of the draft of EPA's next multiyear strategic plan as well as other aligned efforts and plans of the agency." The EPA established the NEJAC on September 30, 1993. As described in a 2014 report on its work, the NEJAC's objectives include providing the EPA with "advice and recommendations" on how to: (1) "Integrate environmental justice considerations into Agency programs, policies, and activities;" (2) Improve the environment or public health in communities disproportionately burdened by environmental harms and risks;" (3) "Address environmental justice to ensure meaningful involvement in EPA decision-making, build capacity in disproportionately burdened communities, and promote collaborative problem solving for issues involving environmental justice;" (4) "Strengthen its partnerships with other government agencies, such as other Federal agencies and State, tribal, and local governments, regarding environmental justice issues; and" (5) "Enhance research and assessment approaches related to environmental justice."

November 17-18

Environmental Justice: The White House Environmental Justice Advisory Council (WHEJAC) will hold a meeting. The meeting will include "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." President Biden established the WHEJAC in the "Executive Order on Tackling the Climate Crisis at Home and Abroad" (EO 140008). As detailed in its charter, the WHEJAC's objectives and activities include: (1) providing "independent advice and recommendations to the Chair of the Council on Environmental Quality (CEQ) and to the White House Interagency Council on Environmental Justice (Interagency Council) on how to increase the Federal Government's efforts to address current and historic environmental injustice, including recommendations for updating Executive Order 12898"; (2) providing "advice and recommendations about broad cross-cutting issues related but not limited to issues of environmental justice and pollution reduction, energy, climate change mitigation and resiliency, environmental health and racial inequity"; and (3) addressing "a broad range of strategic, scientific, technological, regulatory, community engagement, and economic issues related to environmental justice."

November 19

Greenhouse Gas Emissions of Natural Gas Facilities: The Federal Energy Regulatory Commission (FERC) will hold a technical conference "to discuss methods natural gas companies may use to mitigate the effects of direct and indirect greenhouse gas emissions resulting from Natural Gas Act sections 3 and 7 authorizations." The agenda includes panel discussions on: "The Level of Mitigation for a Proposed Project's Reasonably Foreseeable Greenhouse Gas Emissions"; "Types of Mitigation"; and "Compliance and Cost Recovery of Mitigation".

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

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

HEALTH

Administration Announces Plan for Vaccinating Children

Key Points:

- *The Biden Administration released its vaccine distribution plan for vaccinating children ages five to 11.*
- *While the vaccine has not yet been approved for children, it is expected in the next few weeks and the Administration is prepared to ship doses as soon as that approval is granted.*

In preparation for the expected vaccine approval, the Administration released its plan for distributing vaccines for those ages five to 11. The approval is expected in the coming weeks following the Food and Drug Administration advisory committee meeting on October 26 and the Centers for Disease Control and Prevention's advisory committee meeting on November 2-3. The early release of the plan is to ensure vaccines can be quickly distributed following final approval.

The plan relies heavily on states, Tribes, and territories to implement the rollout. Operational readiness calls are being held in advance to help encourage enrollment of pediatric providers and provide resources for a public education campaign. The Administration has already secured enough vaccine doses to cover the 28 million children ages five to 11. If approved, the dose and formula will be specific for this age group along with packaging in smaller configurations that can be stored at standard refrigeration temperatures for up to 10 weeks.

Vaccinations will be made available to more than 25,000 pediatric offices and primary care sites across the country. The Administration is also partnering with the Children's Hospital Association to set up vaccination sites children's hospital system in November through the end of the year. The hospitals will partner with community organization, school, and other partners to conduct outreach. As part of the larger pharmacy program, pharmacies across the country will receive the vaccine for children. The Administration also plans to work with states and local partners to make vaccination sites available at schools and other trusted community settings. Community health centers and rural health clinics will also receive vaccine supply.

Read the fact sheet on the proposal here.

Upcoming Hearings and Meetings

October 26
Caregivers: The House Energy and Commerce Committee will hold a "Caring for America: Legislation to Support Patients, Caregivers, and Providers."

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. Raises Concerns with China's Trade Practices in WTO Review

Key Point:
- *The U.S. and other World Trade Organization (WTO) countries voiced concerns that China has not addressed the problems with its state-run economy. The countries observed this is both distorting global trade and resulting in negative externalities for other countries.*

WTO Members, including the U.S. the E.U., Japan, Canada, Australia, Korea, and India, discussed their review of China trade policies and prices on October 20. Their review raised concerns about China's "lack of transparency, industrial subsidies, intellectual property framework, and state-owned enterprises amongst other concerns." In this review, the U.S. voiced concerns regarding China's utilization of forced labor, economic coercion, and lack of intellectual property rights enforcement. David Bisbee, charge d'affaires of the U.S. Mission in Geneva, noted the U.S. has brought twenty-seven successful cases against China in attempting to compel Chine to comply with WTO rules.

Despite these grievances, China's Commerce Minister Wang Wentao insisted that China has committed to trade liberalization and a market-oriented economy. He cited China's opening of services investment, the pilot free trade zones, the recent Regional and Comprehensive Economic Partnership Agreement, and Beijing's bid to join the Comprehensive and Progressive Agreement on Trans-Pacific Partnership as examples. Wentao also suggested that China is positioned to defend the multilateral trading system and offer constructive WTO reform opportunities. In responses to concerns that China is receiving special WTO treatment despite their strong economy, he committed to discussions of pragmatic reform.

USTR Katherine Tai Seeks Suggestions on African Growth and Opportunity Act (AGOA)

Key Point:

- *U.S. Trade Representative Katherine Tai pledged support for promoting African integration through the African Continental Free Trade Agreement and sought suggestions on how to improve AGOA during the African Growth and Opportunity Act Ministerial.*

During the opening session of the African Growth and Opportunity Act Ministerial Tai regarded AGOA as, "the core," of the U.S.-Sub-Saharan Africa trade relationship. She observed AGOA could be improved to attract more investment and incentivize other countries to join. Tai noted AGOA is only one tool to expand trade and suggested the program should include all of Africa to better align with the African Continental Free Trade Area (AfCTA). She touted new U.S. programs to promote regional and continental value chains for AfCFTA and committed to further engagement to better ensure women owned, small, medium sized, and underrepresented communities see the benefits of AfCTA.

The day before Tai's remarks, trade ministers from Kenya and Mauritius called on the U.S. to give more clarity about AGOA's future as it is set to expire in 2025.

Upcoming Hearings and Meetings

October 26

Nomination: On October 26, 2021 the Senate Finance Committee will hold a nomination hearing to consider the nomination of Maria Pagan, of Puerto Rico, to be Deputy U.S. Trade Representative with the Rank of Ambassador to the World Trade Organization.

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.