

Washington Update

January 26, 2024

This Week In Washington

Senate – The Senate confirmed several judicial nominations and several nominees to serve on the Amtrak Board of Directors.

House – The House was in recess.

Biden Administration – On January 26, the White House [announced](#) a pause on pending decisions on exports of liquefied natural gas to non-free trade agreement countries until the Department of Energy can update the underlying analyses for authorizations.

Next Week In Washington

Senate – The Senate will reconvene on Tuesday, January 30, and is expected to continue processing nominations.

House – The House will reconvene on Monday, January 29, is expected to consider the Agent Raul Gonzalez Officer Safety Act ([H.R. 5585](#)), the Protect Our Communities from DUIs Act ([H.R. 6976](#)), the Consequences for Social Security Fraud Act ([H.R. 6678](#)), and the No Immigration Benefits for Hamas Terrorists Act ([H.R. 6679](#)), and may consider the Tax Relief for American Families and Workers Act ([H.R. 7024](#)).

TAX

Bipartisan Tax Package Could Potentially See House Vote Next Week, Possibly

Key Points:

- *The tax package has been added to a list of bills that “may be considered” on the House suspension calendar next week.*
- *The package has broad support from the business community and from supporters of the child tax credit, but continues to face some opposition from conservative groups over the child tax credit and some moderate Republicans pushing for changes to the SALT cap.*
- *If the package moves through the House, it is not entirely clear whether it will be marked up in the Senate Finance Committee or brought to the floor as a live tax vehicle.*

Last Friday, the House Ways and Means Committee voted overwhelmingly to move its bipartisan tax package forward, clearing it for the House floor by a vote of 40-3. The legislation, whose \$78 billion cost will be almost entirely paid for by ending the employee retention tax credit (ERTC), includes numerous bipartisan priorities including expanding access to the child tax credit (CTC) for low-income individuals; allowing businesses to immediately deduct the cost of domestic research and development (R&D) spending; extending current 100 percent bonus depreciation provisions; and enhancing current small business 179 expensing.

The package also includes two other bipartisan priorities including providing double tax relief for businesses with a footprint in the U.S. and Taiwan; and enhancing the low-income housing tax credit, allowing for increased state allocations and a reduced tax-exempt bond financing requirement.

Business groups have remained engaged in pushing for the package’s adoption, asserting recent drops in domestic R&D investments reported with 4th quarter GDP have been caused by existing R&D amortization rules. They have argued that allowing immediate R&D deductions would help incentivize further investments and keep the U.S. competitive against adversaries such as China.

Additionally, the Joint Committee on Taxation released a [report](#) showing that the package’s changes to the CTC would not result in negative macroeconomic GDP effects, blunting criticism that expansion of the credit would harm the labor market.

Despite this, the package faces an uncertain future. Earlier this week, a key conservative group Advancing American Freedom (AAF) came out against the package, arguing in part

that its changes to the CTC turn the credit into a welfare program. While praising the business provisions, the group also criticized the package's expansion of the low-income housing tax credit and questioned the validity of using the ERTC as a pay-for.

Complicating matters further, some Republicans in New York and other high-tax states are threatening to withhold support for the package if it is not amended to raise the cap on state and local tax deductions, currently set at \$10,000 under the 2017 Tax Cuts and Jobs Act. Leadership is unlikely to meet these demands as doing so would cause the package to lose support for wider sections of the conference.

Top congressional taxwriters remain optimistic the package could be enacted near the start of the tax filing season, set to begin on January 29. The legislation has been [added](#) to a list of bills that "may be considered" on the House suspension calendar next week, however, House leadership has not yet given it a full green light.

In the Senate, questions remain on the package's path forward procedurally speaking. Senate Finance Committee Republicans, including Ranking Member Crapo (R-ID) hope to have an opportunity to mark up the legislation, however, doing so would make it difficult for the package to be enacted near the start of the tax filing season. Some level of agreement or cooperation in the Senate is likely needed to move a tax bill through the Senate as the floor process in the Senate requires 60 votes to move on legislation.

NEC Economist to Become Acting Assistant Secretary for Tax Policy

Key Points:

- *National Economic Council's Aviva Aron-Dine is set to become Acting Assistant Secretary for Tax Policy at the Department of Treasury.*
- *Aviva-Dine – who has a background in health and budget policy – will be replacing Lily Batchelder.*
- *The move comes as many senior economics are departing the Biden Administration to return to previously-held academic positions.*

This week, the Department of Treasury announced Aviva Aron-Dine would become the department's Acting Assistant Secretary for Tax Policy. Aron-Dine currently serves as Deputy Director at the National Economic Council. Aron-Dine will be replacing Lily Batchelder.

The change comes as many senior economists within the Biden Administration officials have begun to return to their previously-held academic positions, including Batchelder, who is returning to New York University's law school.

While Aron-Dine has some experience working on tax policy, including work on the debt limit deal enacted in 2023, her background is primarily focused on health and budget policy. This has made some observers view her as an unusual pick, as the role involves both drafting regulations and advising Congress on tax legislation.

Upcoming Hearings and Meetings

January 31

IRS Chief Counsel Nomination Hearing: On Wednesday, January 31, at 10:00 AM the Senate Finance Committee will hold a hearing entitled, "Open Executive Session to Consider Favorably Reporting the Nominations of Marjorie A. Rollinson and Rebecca Lee Haffajee." The hearing will be held at 215 Dirksen Senate Office Building and will be broadcast to the Committee's [website](#).

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

FINANCIAL SERVICES

SEC Adopts Final Rule Targeting Investor Protections Relating to SPACs

Key Points:

- *The SEC adopted a final rule intended to enhance disclosures and investor protections "in initial public offerings (IPOs) by special purpose acquisition companies (SPACs) and in subsequent business combination transactions between SPACs and target companies (de-SPAC transactions)."*
- *Chair Gensler and Commissioners Crenshaw and Lizarraaga supported the final rule while Commissioners Uyeda and Peirce dissented.*

On January 24, the Securities and Exchange Commission (SEC or Commission) adopted a [final rule](#) requiring "enhanced disclosures about conflicts of interest, SPAC [Special Purpose Acquisition Company] sponsor compensation, dilution, and other information that is important to investors in SPAC IPOs [initial public offerings] and de-SPAC transactions." Additionally, the final rule requires "registrants to provide additional information about the target company to investors that will help investors make more informed voting and

investment decisions in connection with a de-SPAC transaction”, among other things. The rules will become effective 125 days after publication in the *Federal Register*.

Chair Gensler expressed [support](#) for the final rule and argued that it will better align the protections investors receive when investing in SPACs with those provided to them when investing in traditional IPOs. He said the final rule would do this through three areas: (1) additional disclosures; (2) removal of safe-harbor projections; and (3) issuer obligations regarding the SPAC target IPO. He explained that the final rule requires additional disclosures from issuing companies at both the SPAC blank-check IPO stage as well as the SPAC target IPO, makes SPACs accountable for their forward-looking statements, and requires SPAC targets to sign the de-SPAC registration statements.

Commissioner Uyeda [dissented](#) from the final rule and argued that it would impose burdensome regulation on SPACs and “harmful costs on issuers and their shareholders without any corresponding benefits.” He likened the final rule to a form of “merit regulation.” He explained that the SEC could have developed a regulatory framework for SPACs that contained elements of its rules for IPOs and M&A transactions but argued that the final rule instead strays from that and imposes “rigorous and expansive” requirements on SPACs, its IPOs, and any related de-SPAC transaction. He said the SEC is promulgating rules aimed at increasing the costs and decreasing the attractiveness of being associated with SPACs because the Commission lacks statutory authority to outright ban investments in SPACs or become a reporting company via a de-SPAC transaction.

Senate Banking Committee Holds Hearing Regarding NFIP Reauthorization

Key Points:

- *Senators discussed NFIP reauthorization and reform and local risk management, among other topics.*
- *Chairman Brown and Ranking Member Scott emphasized the need not to let the NFIP lapse but also to reform the program.*

On January 25, the Senate Banking Committee held a [hearing](#) entitled, “Reauthorization of the National Flood Insurance Program (NFIP): Local Perspectives on Challenges and Solutions.” Chairman Sherrod Brown (D-OH) emphasized the need to reauthorize and strengthen NFIP, including by investing in mitigation and floodplain management. He recalled hearing from a wide range of stakeholders in prior hearings who discussed: (1) the need for a long-term reauthorization to help communities and stakeholders plan for the future; (2) the importance of helping communities and property owners understand their risk by improving mapping and other risk communications and disclosure of flood hazards

to prospective owners and tenants; and (3) the importance of building state and local capacity to carry out floodplain management and mitigation programs. He added that the Federal Emergency Management Agency (FEMA) has issued recommendations for strengthening the NFIP, including forgiving the debt from previous disasters and providing means-tested assistance to help more people afford insurance. He said he believes “it is possible” for the Committee to come together to reauthorize and improve the NFIP. Ranking Member Tim Scott (R-SC) expressed support for his bill, the Repeatedly Flooded Communities Preparation Act ([S. 2153](#)), and explained that it would help communities suffering from frequent flooding and lower their risk. He highlighted South Carolina’s risk mitigation efforts and noted that in 2023, the state’s budget included significant funding for such efforts. He emphasized that these local solutions will make a huge difference. He emphasized that the status quo is not an option and noted that the NFIP has \$20 billion of debt. He expressed concern that the outdated flood maps and lack of transparent data often obscure the risks rather than educate communities and homeowners on the risks they face. He warned that without a well-functioning and financially solvent insurance system, the NFIP will fail to provide cities and towns with the tools they need to be resilient. He predicted that if this happened, it would deteriorate the financial health of the NFIP. He concluded that comprehensive reform is essential but stressed that the NFIP cannot lapse.

Upcoming Hearings and Meetings

January 30

Sanctions on China: The House Financial Services Committee’s Subcommittee on National Security, Illicit Finance, and International Financial Institutions will hold a [hearing](#) entitled, “Better Investment Barriers: Strengthening CCP Sanctions and Exploring Alternatives to Bureaucratic Regimes.”

China’s Global Influence: The House Select Committee on the CCP will hold a [hearing](#) entitled, “Authoritarian Alignment: The CCP’s Support for America’s Adversaries.”

January 31

AI and Housing: The Senate Banking Committee will hold a [hearing](#) entitled, “Artificial Intelligence and Housing: Exploring Promise and Peril.”

Federal Banking Rule Proposals: The House Financial Services Committee’s Subcommittee on Financial Institutions and Monetary Policy will hold a [hearing](#) entitled, “Rules Without Analysis: Federal Banking Proposals Under the Biden Administration.”

SEC Open Meeting: The Securities and Exchange Commission will hold an [open meeting](#) to consider whether to adopt new rules to further define the phrase “as a part of a regular business” as used in the statutory definitions of the terms “dealer” and “government securities dealer” in connection with certain liquidity providers.

China’s Cyber Threat: The House Select Committee on the CCP will hold a [hearing](#) entitled, “The CCP Cyber Threat to the American Homeland and National Security.”

February 1

Fraud in Banking: The Senate Banking Committee will hold a [hearing](#) entitled, “Examining Scams and Fraud in the Banking System and Their Impact on Consumers.”

February 8

FSOC Annual Report to Congress: The Senate Banking Committee will hold a hearing entitled, “The Financial Stability Oversight Council Annual Report to Congress.” Treasury Secretary Janet Yellen will testify as a witness.

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

ENERGY & ENVIRONMENT

Biden Administration Freezes LNG Export Permits

Key Points:

- *Early on January 26th, the Biden Administration announced that it would impose a moratorium on any further Department of Energy licenses to export liquefied natural gas (LNG) to non-free trade agreement (FTA) countries.*
- *The action drew immediate condemnation from congressional Republicans. Senate Energy and Natural Resources Committee Chairman Joe Manchin (D-WV) said he would hold a hearing on the decision “in the coming weeks”.*
- *The Department of Energy highlighted that the pause on further export decisions will not affect plans for the significant volumes of already-authorized exports of LNG.*

This morning, the Biden Administration announced, “a temporary pause on pending decisions on exports of Liquefied Natural Gas (LNG) to non-FTA countries until the Department of Energy can update the underlying analyses for authorizations.”

As described in the White House [Fact Sheet](#), the “pause” will allow the Department of Energy to “update the underlying analyses” for export authorizations to address:

- “potential energy cost increases for American consumers and manufacturers beyond current authorizations”
- “the latest assessment of the impact of greenhouse gas emissions”;
- the “evolving understanding of the market need for LNG”;
- “the long-term supply of LNG”;
- “the perilous impacts of methane on our planet”; and
- “risks to the health of our communities, especially frontline communities...who disproportionately shoulder the burden of pollution from new export facilities.”

Senate Energy and Natural Resources Committee Chairman Joe Manchin (D-WV) reacted quickly to the announcement, warning in a [statement](#) that “if this pause is just another political ploy to pander to keep-it-in-the-ground climate activists at the expense of American workers, businesses, and our allies in need, I will do everything in my power to end this pause immediately.” Manchin stated that he would “hold a hearing on LNG in the coming weeks to unveil the facts about the true state of play in the markets, this Administration’s motivations, and their implications.”

Senate Republicans, led by Senator Bill Cassidy (R-LA), sent a letter to the President and Secretary of Energy Jennifer Granholm sharply criticizing the action as “reckless”. The Senators called on Biden and Granholm “to stop this shortsighted effort”, arguing that they “should be championing – not undermining – American LNG exports and the environmental, economic, and national security benefits to the United States and our allies.”

The Department of Energy’s announcement regarding the moratorium and export policy review emphasized that the “temporary pause on pending applications will not affect already authorized exports, which total 48” billion cubic feet per day of LNG.

Upcoming Hearings and Events

January 30

EPA Green Bank: The House Energy and Commerce Committee’s Oversight and Investigations Subcommittee will hold a [hearing](#) titled “Fighting the Misuse of Biden’s Green Bank Giveaway”.

Snake River Dams: The House Energy and Commerce Committee's Energy, Climate, and Grid Security Subcommittee will hold a [hearing](#) titled "Exposing President Biden's Plan to Dismantle the Snake River Dams and the Negative Impacts to the U.S."

January 31

Landfill Emissions: The Senate Environment and Public Works Committee will hold a [hearing](#) on "Avoiding, Detecting, and Capturing Methane Emissions from Landfills".

Mining Legislation: The House Natural Resources Committee's Energy and Mineral Resources Subcommittee will hold a [hearing](#) on pending legislation.

Federal Lands Legislation: The House Natural Resources Committee's Federal Lands Subcommittee will hold a [hearing](#) on pending legislation.

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

HEALTH

Senators Wyden and Crapo Release Plan to Prevent Generic Drug Shortages

Key Points:

- *On January 25, Senate Finance Committee Chairman Ron Wyden (D-OR) and Ranking Member Mike Crapo (R-ID) released a white paper on generic drug shortages.*
- *Topics discussed in the paper include Medicare Part A and B payment reforms, incentives for shortage prevention, new pilot programs in Medicare Part D, and Medicaid Drug Rebate Program reforms.*

On January 25, Senate Finance Committee Chairman Ron Wyden and Ranking Member Mike Crapo released a white paper to address generic drug shortages and outline potential policy options under Medicare and Medicaid. This white paper follows a [hearing](#) the Committee held on December 5, 2023, to discuss the supply challenges, impacts, and policy solutions for drug shortages. In a [press release](#), Chairman Wyden noted, "Addressing the generic drug shortage crisis in Oregon and across America is urgent business, and Ranking Member Crapo and I are firmly committed to using the power of Medicaid and Medicare to do just that."

According to the press release, the Committee explores the following areas for potential legislation in the white paper:

- “Medicare Part A and B payment reforms to stabilize supply of generic sterile injectable (GSIs) medicines;
- New incentives for providers and other prescription drug supply chain stakeholders to engage in shortage prevention and mitigation activities, such as maintaining buffer inventory and developing sustainable contracts, and increasing supply chain stakeholder transparency;
- Reforms or new pilot programs in Medicare Part D to bolster incentives for pharmacies to purchase generic medicines from drug manufacturers that invest in shortage mitigation, quality, and drug supply chain resilience; and
- Potential reforms to the Medicaid Drug Rebate Program targeting generic medicines in shortage.”

The white paper is available [here](#).

Biden-Harris Administration Launches Campaign to Increase Medicare Advantage Transparency

Key Points:

- *On January 25, the Department of Health and Human Services (HHS), through the Centers for Medicare and Medicaid Services (CMS), released a Request for Information (RFI) to improve data sharing and enhance competition in Medicare Advantage (MA) plans.*
- *The RFI requests information on topics including access to care, prior authorizations, provider directories, marketing, and competition.*

On January 25, HHS, through CMS, released an RFI to receive feedback on increasing transparency in MA plans. The RFI is requesting public input on topics such as access to care, prior authorization, provider directories, networks, supplemental benefits, marketing, care quality and outcomes, value-based care arrangements and equity, and healthy competition in the market, including the effects of vertical integration and how it affects payments.

In a [press release](#), HHS Secretary Xavier Becerra stated, “Americans with Medicare who have managed care plans called Medicare Advantage should not feel like their health care is a black box.” The CMS Administrator Chiquita Brooks-LaSure added, “This Request for Information builds on our existing Medicare Advantage data transparency efforts to further align with Traditional Medicare and provide the data we need to ensure the growing Medicare Advantage program best meets the needs of enrollees.” The RFI comment period will close in 120 days.

A fact sheet is available [here](#).

CMS Announces \$50 Million in Grants for School-Based Health Services for Children

Key Points:

- *On January 24, HHS, through CMS, announced \$50 million in grants for states to expand school-based health services for children enrolled in Medicaid and Children's Health Insurance Program (CHIP).*
- *Applications for the grant are due by March 25, 2024.*

On January 24, HHS, through CMS, announced \$50 million in grants for states to expand school-based health services, mainly mental health services, for children enrolled in Medicaid and CHIP. This funding was made available under the Bipartisan Safer Communities Act (BSCA) ([P.L. 117-159](#)), which provides grants of up to \$2.5 million for 20 states. In a [press release](#), HHS Secretary Xavier Becerra said, "Providing quality, affordable health care requires meeting people where they're at, and for children, that often means school." CMS Administrator Chiquita Brooks-LaSure added, "Medicaid and CHIP cover over 39 million children. This targeted support is one way CMS can help kids get the health care they need by meeting them where they are — in school."

In addition to the funding, HHS Secretary Xavier Becerra and the Department of Education Secretary Miguel Cardona sent a [letter](#) to governors encouraging them to increase Medicaid funding in their states by applying for these grants. In this letter, Becerra and Cardona stated that the grant funding will "make it easier for states to support schools in providing critical health care services, especially mental health services, for millions of students across the nation." Applications for the grant are due by March 25, 2024.

Upcoming Hearings and Events

January 31

Prescription Drugs: The Senate Health, Education, Labor, and Pensions Committee will hold an [executive session](#) entitled "Authorization for Investigation into the High Costs of Prescription Drugs and Related Subpeonas."

Health Care Spending: The House Energy and Commerce Committee Subcommittee on Health will hold a [hearing](#) entitled "Health Care Spending in the United States: Unsustainable for Patients, Employers, and Taxpayers."

HHS: The House Oversight and Accountability Select Subcommittee on the Coronavirus Pandemic will hold a [hearing](#) entitled “Overseeing the Department of Health and Human Services’ Compliance with Congress.”

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

CYBERSECURITY, PRIVACY, AND ARTIFICIAL INTELLIGENCE

Maryland Legislators Announce Package of Four Consumer Protection Bills

Key Point:

- *Democratic lawmakers in Maryland announce four-bill package aimed at increasing online data privacy protection.*

On January 24, Democratic lawmakers in Maryland announced a four-bill package aimed at providing additional consumer data protection. These bills will follow in the footsteps of California and Connecticut legislation aimed at protecting consumers from the use and sale of their personal data without explicit consent. Additionally, the bills will put in place further protections about the collection and use of children’s online data. According to a [report](#) from the National Conference of State Legislatures, only California, Colorado, Utah, Virginia, and Connecticut have comprehensive consumer data privacy laws.

One of the bills in the package, the Maryland Online Data Privacy Act ([H.B. 567](#)), would set limits on companies’ to of personal user data. This includes restricting companies’ collection of data not only that data which is necessary for the needs of the business. Maryland House Speaker Adrienne A. Jones commented on the package of bills: “The passage of bills we are announcing today puts safeguards in place to guarantee that our most vulnerable consumers are protected, particularly when they are online” ([The Washington Post](#)).

The National Security Agency’s (NSA) Purchase of Metadata Violated Consumer Protection Laws

Key Point:

- *Senator Ron Wyden (D-OR) has accused the NSA of illegally accessing individual’s personal geolocation data through its purchase of end-user metadata without a warrant.*

On January 25, Senator Ron Wyden released documents showing that the NSA purchased internet data without requiring a warrant. This data included consumer meta data

containing potentially sensitive information. In a January 25 [letter](#) to Director of National Intelligence Avril Haines, Senator Wyden wrote: “As you know, U.S. intelligence agencies are purchasing personal data about Americans that would require a court order if the government demanded it from communications companies. I first revealed in 2021 that the Defense Intelligence Agency (DIA) was purchasing, storing, and using domestic location data. Such location data is collected from Americans’ smartphones by app developers, sold to data brokers, resold to defense contractors, and then resold again to the government. In addition; the National Security Agency (NSA) is buying Americans’ domestic internet metadata.”

Senator Wyden argues that the NSA violated an FTC order that restricted the sale of geolocation data by data brokers without obtaining explicit consent from users. He commented on this issue: “The U.S. government should not be funding and legitimizing a shady industry whose flagrant violations of Americans’ privacy are not just unethical, but illegal.” The NSA released a statement refuting Senator Wyden’s view: “NSA purchases commercially available Netflow data for its cybersecurity mission, to include but not limited to inform the Agency’s collection, analysis, and dissemination of cyber threat intelligence... At all stages, NSA takes steps to minimize the collection of U.S. person information, to include application of technical filters” ([NextGov](#)).

A.I. Versus A.I. Conflict Expected to Transition into New Era of Cyber Warfare

Key Point:

- *At DefenseScoop’s Google Defense Forum, Department of Defense’s Cyber Crime Center, Jude Sunderbruch and Army Colonel Richard Leach commented on the use of A.I. and automation in U.S. cyberspace.*

On January 25, Director of the Department of Defense’s (DOD) Cyber Crime Center, Jude Sunderbruch, echoed statements by researchers and officials that the use of artificial intelligence by adversaries will likely lead to a new form of cyberattacks against the U.S. ([NextGov](#)). This follows the DOD’s September 2023 release of its [Cybersecurity Strategy](#) that details avenues for the Department to analyze the effect of automation and A.I. on U.S. cyberspace.

In a statement at DefenseScoop’s Google Defense Forum, Sunderbruch said, “Adversaries are trying to get past our boundaries and our securities every day. They’re moving at ‘lightspeed.’ They’re on fiber optic networks. They’re able to bounce from one VPS [virtual private server] to another in an instant, so utilizing AI to try to get ahead of that is going to be essential” ([Cointelegraph](#)). Speaking alongside Sunderbruch at the forum, Army Colonel

Richard Leach said, “Let AI identify key pieces of information and maybe do some of the basic analysis. Let the analysts focus on the hard problem set so they’re not wasting time, resources and people.”

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

TRADE

UAW Requests Higher MFN Tariffs on Autos Amid Industry Comments on USMCA Implementation

Key Points:

- *The UAW union has asked USTR to raise MFN tariffs on automobiles and automotive parts.*
- *UAW's recent request comes amid an ongoing dispute about interpretation of USMCA's rules of origin, with the labor union supporting stricter compliance.*
- *In addition, automotive industry stakeholders have sought specific consideration for EVs and EV parts.*

On January 17, the United Auto Workers (UAW) sent a [letter](#) to the U.S. Trade Representative (USTR) following [USTR's request for comments](#) on the implementation of the U.S.-Mexico-Canada Agreement (USMCA) and its [rules of origin](#) provisions for the automotive industry. The UAW requested that the USTR raise most-favored-nation (MFN) tariffs for automobiles and automotive parts, including EVs, above the current rate of 2.5 percent. UAW maintains that current rates are insufficient to rebalance trade between nations and to ensure compliance with sourcing and labor provisions. They also raised concerns about Chinese companies skirting U.S. tariffs through investments in the Mexican automotive sector.

In 2022, a USMCA dispute settlement panel ruled in favor of Canada and Mexico's looser interpretation of rules of origin provisions. Since the ruling, UAW has urged the U.S. to maintain its' stricter interpretation of the rules.

In addition to UAW's response to the USTR's request for comments, the Labor Advisory Committee for Trade Negotiations and Trade Policy (LAC) submitted a separate [comment](#) affirming their support for the UAW's position and requested additional resources be allocated to the implementation of USMCA labor provisions. In contrast to UAW and LAC, the [Mexican Association of the Automotive Industry \(AMIA\)](#) and [Autos Drive America \(ADA\)](#) voiced their support for the USMCA settlement panel's decision. Other groups, like the American Automotive Policy Council (AAPC), have [called](#) for the resolution of the dispute

without taking a stance on a preferred rules of origin interpretation. AAPC requested “a reasonable implementation timeline and sufficient notice to automakers” and suggested the creation of an advisory group to bring USCMA automotive industry stakeholders together. UAW, AMIA, and LAC all called for specific considerations for EVs and EV parts.

Following the comment period, USTR and the Interagency Committee on Trade in Automotive Goods will hold a public hearing on February 7.

Senate Democrats Voice Opposition to Biden Administration Deputy USTR Nomination

Key Points:

- *Senate Banking Chairman and Finance Committee senior member Brown (D-OH) has voiced his official opposition to the nomination of Nelson Cunningham to become Deputy USTR.*
- *The opposition follows comments from Senate Finance Chairman Wyden (D-OR) questioning President Biden’s nomination.*
- *The conflict surrounds a broader trend of staffers leaving the office of the USTR.*

On January 24, Senate Banking Chairman and senior Senate Finance Committee member Brown (D-OH) issued a [statement](#) opposing President Biden’s nomination of Nelson Cunningham to be Deputy USTR. President Biden [announced](#) his intent to nominate Cunningham on January 11. On the same day, Senate Finance Chairman Wyden (D-OR) questioned the nomination, stating in a [readout](#) that he “would like to see candidates with more diverse and representative experience.” Chairman Wyden further asserted that Cunningham’s “experience representing the interest of multinationals is not the same as considering the views of workers in Toledo and small business owners in Medford.” Chairman Brown is the first Senate Democrat to officially oppose the nomination, stating that he would “only support trade nominees who have rejected the failed policies of the past and have a demonstrated record of standing on the side of workers.” Specifically, Chairman Brown asserts in his release that trade policy negotiations should not include those “who advocated for the Trans-Pacific Partnership, which would have been a terrible deal for Ohio workers.”

The comments suggest Cunningham’s nomination faces an uphill climb at best, and follow a trend of vacancies and departures from the office of the USTR spanning back to the [announced](#) leave of Deputy USTR White on November 1, 2023. Since then, Deputy USTR Bianchi, [General Counsel](#) Peisch, and [Chief of Staff](#) Hurlburt have announced their departure from the agency.

House CCP Leadership Call on DHS to Enforce UFLPA, Assess De Minimis Threshold

Key Points:

- *House CCP Leadership has issued a letter to DHS Secretary Mayorkas urging the Department to further limit the importation of goods sourced from forced Uyghur Labor.*
- *The letter cautions against the growing transfer of Uyghur forced laborers across multiple Chinese regions, growing numbers of transshipment products into the U.S., and the de minimis threshold.*

On January 19, House Select Committee on the Chinese Communist Party (CCP) Chairman Gallagher (R-WI) and Ranking Member Krishnamoorthi (D-IL) issued a letter to Department of Homeland Security (DHS) Secretary Mayorkas. The letter, which was also sent to Department of Justice (DOJ) Attorney General Garland, urges DHS to “take immediate action to strengthen the enforcement of the Uyghur Forced Labor Prevention Act (UFLPA).” The signatories detail that the bill, which originally tasked DHS with banning forced labor products from the Xinjiang Uyghur Autonomous Region (XUAR), has resulted in a state-sponsored program to transfer forced laborers into other regions in the country. The letter states there is an “urgent need to expand the UFLPA Entity List to include numerous companies and entities located outside the XUAR because of the affiliation to companies and entities in the region,” specifically citing the seafood, gold, and critical mineral sectors. The correspondence adds that Uyghur forced labor “also pervades the U.S. gold and critical mineral markets,” noting that “1,482 U.S. companies maintain supply chain relationships with at least 13 publicly listed PRC gold companies that have active mines located in the XUAR.”

Chairman Gallagher and Ranking Member Krishnamoorthi also detail their concerns about the growing influence of the transshipment of Chinese goods into the U.S. through other countries, noting that “Vietnam, among many other countries, extensively sources cotton, yarn, and fabric from the PRC – where 90 percent of cotton originates in the XUAR.” In turn, the two call on DHS to increase enforcement of transshipment goods that potentially violate UFLPA to include “companies outside the PRC that profit from the use of Uyghur forced labor to the UFLPA Entity List.” The letter further requests a written assessment of the impact of the de minimis threshold on the importation of UFLPA-violating goods.

The letter requests that Secretary Mayorkas provide written responses to their questions regarding UFLPA import restrictions by March 1, 2024.

European Commission Proposes Outbound Investment Package to Strengthen Economic Security

Key Points:

- *The European Commission has proposed a trade and investment package aimed at strengthening the region's economic security*
- *The package includes the establishment of an outbound investment mechanism, a foreign investment monitoring system, and greater export controls on dual-use civil and military goods.*

On January 24, the European Commission outlined its proposed actions to ensure the region's economic security. Within a [press release](#), the Commission asserts that the "growing geopolitical tensions and profound technological shifts" present challenges for ensuring the economic security of the EU. As a result, the Commission has detailed its plans to adopt a screening system for foreign investments into the EU "to prevent investments that may pose a risk to the EU's security." Further, the Commission notes that the EU must continue to coordinate approaches on the exportation of dual-use goods "that can be used for both civil and military purposes (such as advanced electronics)" between Member States. Likewise, the Commission states that future trade will assess "the potential risks associated with certain EU investments abroad," including the impact of advanced technologies for militaries who may pose security concerns to the EU.

The announcement follows the publication of the European Economic Security Strategy in June 2023. The [strategy](#), which highlighted the Commission's focus on "investing in skills and fostering the EU's research, technological and industrial base[s]," called for a comprehensive outbound investment regime, strengthened export controls for dual-use goods, and a foreign investment screening system.

Bipartisan Group of Senators Call for Biden Administration to Oppose Expanding IP Rule Exceptions (TRIPS Waiver) for COVID-19 Tests and Treatments

Key Points:

- *The proposal to the WTO would provide IP exceptions for COVID-19 tests and treatments.*
- *A group of 14 Senators, including Senate Finance Ranking Member Crapo (R-ID), have opposed expanding the rules waiver on the grounds that weak IP protections can stifle innovation.*
- *The Biden Administration has yet to take a public stance on the proposed TRIPS waiver expansion.*

On January 25, a bipartisan group of 14 Senators wrote to President Biden and U.S. Trade Representative Tai to express opposition to the proposal by some World Trade Organization (WTO) members to waive portions of Trade-Related Aspects of IP Rights (TRIPS) agreement protections for COVID-19 tests and treatments, an expansion of a prior waiver on vaccines. Signatories to the [letter](#) included Senator Coons (D-DE), Senator Crapo (R-ID), Senator Carper (D-DE), Senator Tillis (R-NC), Senator Hirono (D-HI), Senator Barrasso (R-WY), Senator Sinema (I-AZ), Senator Blackburn (R-TN), Senator Tester (D-MT), Senator Scott (D-SC), Senator Cantwell (D-WA), Senator Lankford (R-OK), Senator Warner (D-VA), and Senator Cornyn (R-TX). The Senators argue the waiver “would not improve global access to these medicines and would have significant adverse consequences for American manufacturers, innovation, and global competitiveness.”

India and South Africa have previously argued in favor of the proposed TRIPS expansion alongside a group of developing countries. The U.S., EU, Switzerland, and Japan have not supported the expansion. Notably, the U.S. has not yet publicly released its official position. In June 2022, COVID-19 vaccines were afforded TRIPS waivers to respond to high demand. The TRIPS decision provided six months for WTO members to determine whether to further expand the TRIPS waivers, although that deadline has since been extended indefinitely.

The January 25 letter echoes a letter from 19 House Democrats in early January expressing their opposition to expanding the TRIPS decision.

Senator Cornyn Introduces Bill to Evaluate U.S. Access to Critical Mineral Global Supply Chains

Key Points:

- *A bipartisan group of legislators, led by Senator Cornyn (R-TX), have introduced legislation to require an annual review of U.S. access to global critical mineral supply chains.*
- *The bill would task DOI with assessing global supply and ownership levels of critical minerals.*

On January 18, Senator Cornyn (R-TX) introduced legislation to “secure U.S access to critical mineral supply chains and counter Chinese industry dominance” in the critical mineral sector, according to a [press release](#). The bill, dubbed the Critical Minerals Security Act ([S. 3631](#)), would task the Department of the Interior (DOI) with evaluating the ownership and supply of global critical mineral supply chains and establish a process to “assist U.S companies seeking to divest critical minerals operations in foreign countries.” In addition, the legislation would require DOI to develop a system for sharing intellectual property rights for clean mining and processing technologies between the U.S. and its allies and

partners. Within the release, Senator Cornyn asserted that the “legislation would ensure the U.S. and our allies understand how critical minerals are controlled around the world so we can counter foreign countries of concern.”

The bill was drafted by Senator Cornyn in collaboration with Senator Warner (D-VA), Senator Young (R-IN), Senator Lankford (R-OK), and Senator Hickenlooper (D-CO). It has been read and assigned to the Senate Energy and Natural Resources Committee.

Upcoming Hearings and Meetings

January 30

CCP Sanctions: The House Financial Services Subcommittee on National Security, Illicit Finance, and International Financial Institutions will hold a hearing entitled, “Better Investment Barriers: Strengthening CCP Sanctions and Exploring Alternatives to Bureaucratic Regimes.” Witnesses include: the Honorable Thomas Feddo, Founder, The Rubicon Advisors LLC; the Honorable Richard Ashooh, Vice President of Global Trade and Government Affairs, Lam Research Corporation; and the Honorable Clayton Lowery, Executive Vice President, Institute of International Finance. The hearing will be held in 2128 Rayburn House Office Building at 10:00 am, and [webcast](#) as well.

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