**This Week In Washington**

**Senate** – The Senate confirmed several judicial nominations and passed [H.R. 7463](#), a short-term funding measure that funds the federal government in two tranches through March 8 (Agriculture, Energy-Water, Military Construction-VA, and Transportation-HUD) and March 22, respectively. It also failed to override the President’s veto of [S.J. Res. 38](#) regarding a rule submitted by the Federal Highway Administration relating to the “Waiver of Buy America Requirements for Electric Vehicle Chargers.”


**Biden Administration** – President Biden signed [H.R. 7463](#) into law.

**Next Week In Washington**

**Senate** – The Senate will reconvene on Tuesday, March 5, is expected to continue processing nominees, and may act to address the spending bills that expire on March 8 and March 22, respectively.

**House** – The House will reconvene on Tuesday, March 5, may consider the Expanding Access to Capital Act of 2023 ([H.R. 2799](#)), and is expected to vote on a package of six full-year appropriations bills (Agriculture, Commerce-Justice and Science, Energy-Water, Interior-Environment, Military Construction-VA, and Transportation-HUD).
TAX

Senate Republicans Reiterate Tax Package Concerns; Commit to Finding Path Forward

Key Points:

▪ Senate Finance Ranking Member Crapo (R-ID) issued a statement reemphasizing his concerns with the bipartisan tax package.

▪ Ranking Member Crapo remained optimistic the Senate could still find a path forward.

▪ Senate Finance Chairman Wyden (D-OR) said he hopes to pass the tax package by April 15.

On Wednesday, Senate Finance Ranking Member Crapo (R-ID) met with Senate Finance Republicans to discuss the pending tax package. Later, Ranking Member Crapo issued a statement outlining the current state of negotiations surrounding the tax package. In the statement, he criticized efforts to “pressure” Senate Republicans into accepting the package without amendments, which was negotiated between Senate Finance Chairman Wyden (D-OR) and House Ways and Means Chairman Smith (R-MO) without addressing all of Ranking Member Crapo’s concerns.

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.

That said, Ranking Member Crapo has criticized the package for allowing taxpayers to claim a refundable CTC based on the prior year’s earnings (so-called “look-back”). He further criticized the package’s CTC provisions, which he asserted would largely benefit Americans not owing any federal income tax. There have been suggestions that other items like traditional extenders or SECURE 2.0 technical corrections could be appropriate additions to the tax package.

Ranking Member Crapo closed out the statement by emphasizing his support for provisions in the package that would “maintain pro-growth Tax Cuts and Jobs Act policies.” He
remained optimistic a “bipartisan resolution” could be found and did not rule out pursuing a Senate regular order process in lieu of a markup.

As for timing, this week, Chairman Wyden stated his new goal of passing the package is April 15 – the end of the 2024 filing season. With the Senate contending with a new set of government funding deadlines (March 8 and March 22), and the need to use floor time to address the impeachment of Department of Homeland Security Secretary Mayorkas, it is unclear when the tax package might come up for consideration in either Finance Committee or the Senate, but business and other groups continue to pressure for action on the tax package.

**Senator Capito Seeks Changes in Section 45V Guidance**

**Key Points:**
- In 2023, the Department of Treasury released Section 45V implementation guidance based around a three-pillar structure.
- Senator Capito (R-WV) sent a letter criticizing this guidance, asserting it would stifle the growth of the hydrogen industry.

Late last year, the Department of Treasury released new guidance on the implementation of the Inflation Reduction Act Section 45V clean hydrogen production credit. This guidance set standards on deliverability, time matching, and incrementality when using energy attribute certificates. Furthermore, the guidance sets standards on what types of renewable energy must be used when producing hydrogen for the end product to ultimately qualify for the Section 45V credit. Advocates for strict guidance assert without a narrow definition of what qualifies as “green” hydrogen, net carbon emissions would still increase despite wider adoption of hydrogen technology.

In response to the guidance, Senator Capito (R-WV) sent a letter this week to Treasury Secretary Yellen stating the guidance’s three-pillar approach would undermine efforts to grow the hydrogen industry due to its “overly burdensome requirements that will stifle the capital-intensive investments necessary to develop the sector.” She further criticized the three-pillar approach as going beyond the scope of congressional intent, stating it was not established in statute.

**Senate Confirms IRS Chief Counsel Rollinson**

**Key Points:**
- The Senate confirmed Rollinson by a vote of 56-41.
● The position was filled in an acting capacity since January 2021.

On February 29, the Senate confirmed Marjorie Rollinson to be IRS chief counsel by a vote of 56-41, with six Republicans joining Democrats in supporting her nomination. The position has not been filled in a formal capacity since January 2021, when President Trump's nominee resigned at the end of his Administration. The role has since been filled in an acting capacity.

At the IRS and Department of Treasury, Rollinson will assist the offices in the implementation of energy tax credit provisions of the Inflation Reduction Act, as well as the Biden Administration's efforts to crack down on tax cheats. Rollinson will be the first woman to serve in the role.

Upcoming Hearings and Meetings

March 7

House Ways and Means OECD Pillar One Hearing: On Thursday, March 7, at 2:00 PM the House Ways and Means Subcommittee on Tax will hold a hearing entitled, “OECD Pillar One: Ensuring the Biden Administration Puts Americans First.” The hearing will be held at 1100 Longworth House 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

House Financial Services Committee Marks Up Housing, Anti-Money Laundering, and Wildfire Insurance Study Measures

Key Point:

- The Committee favorably reported a resolution disapproving SEC SAB No. 121 (H.J. Res 109), the HUD Accountability Act of 2023 (H.R. 6864), the HUD Transparency Act of 2024 (H.R. 7280), the Countering Cyber Crimes Act of 2024 (H.R. 7156), and the Wildfire Insurance Coverage Study Act (H.R. 7462).

Chairman Patrick McHenry (R-NC) said passing the resolution disapproving the Securities and Exchange Commission (SEC) Staff Accounting Bulletin (SAB) No. 121, the Department of Housing and Urban Development (HUD) Accountability Act of 2023, and the HUD
Transparency Act of 2024 should all be “no-brainers.” He explained that the Countering Cyber Crimes Act of 2023 ensures the Secret Service has the funding and tools to investigate money laundering and stated that the Wildfire Insurance Coverage Study Act is highly important. Ranking Member Maxine Waters (D-CA) highlighted the importance of the Wildfire Insurance Coverage Study Act as wildfire damage increases and insurance companies leave states with wildfire risk. She expressed opposition to the resolution disapproving the SEC SAB No. 121 because it would block the SEC staff from providing clarity on how a company should account for its customers’ cryptocurrencies and said she is “disappointed” that all Republicans are offering to address the housing crisis is to require the HUD Secretary and the Inspector General to testify annually.

**CFPB Responds to Executive Order to Protect Americans’ Sensitive Personal Data**

*Key Point:*

- CFPB Director Chopra expressed support for the Executive Order and said the Bureau will propose new rules to address the illegal assembling and selling of extremely sensitive data.

Following President Biden’s Executive Order “to Protect Americans’ Sensitive Personal Data” from exploitation by countries of concern, in which the Consumer Financial Protection Bureau (CFPB) was encouraged to consider taking steps to protect Americans, CFPB Director Rohit Chopra issued the following statement:

> “Today’s Executive Order is a reminder of the urgent need to protect the personal data of Americans. Corporate data brokers are assembling and selling extremely sensitive data on all of us, including U.S. military personnel, to foreign purchasers. The Executive Order calls on the CFPB to utilize its legal authorities to provide greater protections. This year, we will be proposing new rules to rein in these abuses that will safeguard families and our national security.”

**Upcoming Hearings and Meetings**

**March 6**

**Semiannual Monetary Policy Report:** The House Financial Services Committee will hold a hearing with Federal Reserve Chairman Jerome Powell to testify on the Federal Reserve's semiannual monetary policy report to Congress.
CFTC Oversight: The House Agriculture Committee will hold a hearing to receive testimony from Commodity Futures Trading Commission Chairman Rostin Behnam.

SEC Open Meeting: The Securities and Exchange Commission (SEC) will hold an open meeting to: (1) consider whether “to adopt amendments to the national market system (NMS) stock order execution disclosure requirements of Regulation NMS ... that would expand the scope of entities subject to Rule 605, modify the categorization and content of order information reported under the rule, and require reporting entities to produce a summary report of execution quality” and (2) consider whether to adopt rules to “require registrants to provide certain climate-related information in their registration statements and annual reports.”

CFTC Advisory Committee: The Commodity Futures Trading Commission (CFTC) Global Markets Advisory Committee will hold a meeting to “hear presentations and consider recommendations from the GMAC’s Subcommittees on Global Market Structure, Technical Issues, and Digital Asset Markets regarding various workstreams.”

March 7

OFR Nomination: The Senate Banking Committee will meet in executive session to vote on the nomination of Dr. Ron Borzekowski, to be Director of the Office of Financial Research (OFR), Department of the Treasury.

Semiannual Monetary Policy Report: The Senate Banking Committee will hold a hearing with Federal Reserve Chairman Jerome Powell to testify on the Federal Reserve’s semiannual monetary policy report to Congress.

Financial Regulation: The House Financial Services Committee will hold a hearing entitled, “Politicized Financial Regulation and its Impact on Consumer Credit and Community Development.”

SEC Investor Advisory Committee: The Securities and Exchange Commission’s (SEC’s) Investor Advisory Committee will hold a public meeting. The agenda includes: a panel discussion on the SEC equity market structure proposals; a panel “Examining the use of Materiality as a Disclosure Standard – Can the Definition be Improved to Better Serve Investors?”; a discussion of a recommendation regarding Digital Engagement Practices; and Subcommittee and Working Group reports.

For more information about financial services issues you may email Joel Oswald or Mahlet Makonnen. Nicholas May contributed to this section.
President Nominates Three FERC Commissioners

Key Point:
- On February 29, President Biden nominated Judy W. Chang, David Rosner, and Lindsay S. See to fill three seats on the five-member Federal Energy Regulatory Commission.

On Thursday, the White House announced President Biden's nomination of Judy W. Chang, David Rosner, and Lindsay S. See to the Federal Energy Regulatory Commission (FERC). These nominations will fill two vacant slots and the slot of Democratic Commissioner Allison Clements, whose term will expire at the end of June.

Chang is an economics and policy expert who has held roles as the former Undersecretary of Energy and Climate Solutions for Massachusetts and as an Adjunct Lecturer in Public Policy at the Harvard Kennedy School. Her work has focused on “topics related to energy resource deployment; energy contracts; transmission planning, access, and pricing; and electricity market design.” She is currently a Senior Fellow at the Kennedy School's Mossavar-Rahmani Center for Business and Government. She is also an advocate for women’s advancement in the energy sector and serves as an ambassador for the U.S. Department of Energy's Clean Energy Education and Empowerment Initiative.

Rosner is an energy industry analyst for FERC and is currently detailed to the Senate Energy and Natural Resources Committee's Democratic staff. At FERC, he has “led efforts related to the Commission's rulemaking on energy storage resources, electric transmission, offshore wind integration, fuel security, and natural gas-electric coordination.” He previously held positions at the Department of Energy's Office of Energy Policy and Systems Analysis and as an associate director at the Bipartisan Policy Center’s Energy Project.

See's nomination is recommended by Senate Minority Leader Mitch McConnell (R-KY). She is currently the Solicitor General of West Virginia and manages appellate litigation and major cases for the State. She also focuses on regulatory and administrative law and works with multi-state coalitions. She previously practiced appellate and administrative law with Gibson, Dunn & Crutcher.

Chairman Joe Manchin (D-WV) issued a statement expressing that he looks forward to reviewing the nominees and that a “fully-seated, bipartisan FERC provides more opportunity for advancing long-lasting, sensible energy infrastructure policy.”
EPA Issues Regulations Targeting Chemical Facilities and Refineries

**Key Point**
- On March 1, the Environmental Protection Agency (EPA) issued the final rule imposing new requirements for chemical manufacturing facilities and refineries to prevent and address accidents.

Today, the Environmental Protection Agency (EPA) released the text of the final rule titled “Accidental Release Prevention Requirements: Risk Management Programs Under the Clean Air Act; Safer Communities by Chemical Accident Prevention”. The rule is intended “to improve chemical process safety; assist in planning, preparedness, and response to Risk Management Program-reportable accidents; and improve public awareness of chemical hazards at regulated sources.”

In a press release, the EPA stated that the final rule includes provisions:
- “Requiring a safer technologies and alternatives analysis, and in some cases, implementation of reliable safeguard measures for certain facilities in industry sectors with high accident rates.”
- “Advancing employee participation, training, and opportunities for employee decision-making in facility accident prevention…”
- “Reiterating the allowance of a partial or complete process shutdown in the event of a potential catastrophic release.”
- “Implementing a process to allow employees and their representatives to anonymously report specific unaddressed hazards.”
- “Requiring third-party compliance audits and root cause analysis incident investigation for facilities that have had a prior accident.”
- “Enhancing facility planning and preparedness efforts to strengthen emergency response by ensuring chemical release information is timely shared with local responders and a community notification system is in place to warn the community of any impending release.”
- “Emphasizing the requirement for regulated facilities to evaluate risks of natural hazards and climate change, including any associated loss of power.”
- “Increasing transparency by providing access to RMP facility information for communities nearby.”

On August 31, 2022, the EPA published the Notice of Proposed Rulemaking (NPRM). As described in an EPA Fact Sheet, the “Clean Air Act Amendments of 1990” added Section 112(r) to the Clean Air Act (42 USC 7412(r)), which directs the “EPA to publish regulations
and guidance for chemical accident prevention at facilities using substances that posed the greatest risk of harm from accidental releases.”

In a statement, American Fuel and Petrochemical Manufacturers (AFPM) President and CEO Chet Thompson warned that “[t]hrough this major regulation, EPA is attempting to put even more barriers in the way of U.S. fuel and petrochemical production.” He also asserted that the final “rule is a litany of costs without clear, demonstrable benefits.”

Upcoming Hearings and Events

March 6

**Habitat Conservation:** The House Natural Resources Committee’s Water, Wildlife, and Fisheries Subcommittee will hold a hearing on “America’s Wildlife Habitat Conservation Act” (H.R. 7408).

**Pending Legislation:** The House Natural Resources Committee’s Energy and Mineral Resources Subcommittee will hold a hearing on pending legislation: the “Enhancing Geothermal Production on Federal Lands Act” (H.R. 6482); the “Geothermal Energy Opportunity Act” (H.R. 7370); legislation to “amend the Mineral Leasing Act to improve the assessment of expression of interest fees...” (H.R. 7375); the “Royalty Resiliency Act” (H.R. 7377); the “Harnessing Energy at Thermal Sources Act” (H.R. 7409); and the “Geothermal Cost-Recovery Authority Act of 2024” (H.R. 7422).

**Packaging Responsibility:** The Senate Environment and Public Works Committee will hold a hearing titled “Examining Extended Producer Responsibility Policies for Consumer Packaging”.

March 21

**FERC Meeting:** FERC will hold its monthly open meeting.

March 25-29

**Natural Gas Pipeline Rulemakings:** The Pipeline and Hazardous Materials Safety Administration’s (PHMSA) Gas Pipeline Advisory Committee (GPAC) will hold a meeting “to complete discussion of the notices of proposed rulemaking (NPRMs) titled ‘Gas Pipeline Leak Detection and Repair’ and ‘Class Location Change Requirements’”. The GPAC originally convened a meeting to discuss the two rulemakings on November 27-December 1, 2023.
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. Jessica Mason contributed to this section.

HEALTH

CMS Issues Final Guidance on the Medicare Prescription Payment Plan

Key Points:

- On February 29, the Centers for Medicare and Medicaid Services (CMS) released part one of the final guidance for the Medicare Prescription Payment Plan.
- The plan outlines different topics for Medicare Part D plan sponsors, such as identifying Medicare Part D enrollees likely to benefit from the program, the opt-in process, participant protections, and data collection.

On February 29, CMS released part one of the final guidance for the Medicare Prescription Payment Plan. Starting in 2025, the plan requires all Medicare Part D plans to allow enrollees to pay out-of-pocket costs every month instead of in a yearly lump sum. This guidance builds on other provisions from the Inflation Reduction Act (IRA) (P.L. 117-169) intended to lower health care costs for seniors. The Medicare Prescription Payment Plan outlines different topics for Medicare Part D plan sponsors, such as identifying Medicare Part D enrollees likely to benefit from the program, the opt-in process, participant protections, and the data collection for the program.

In a press release, CMS Administrator Chiquita Brooks-LaSure stated, “The guidance released today is an important step in helping certain people with Medicare prescription drug coverage who have high upfront drug costs to spread out their cost sharing over the year...CMS remains committed to implementing the historic Inflation Reduction Act in order to help people with Medicare lower costs and access the prescriptions they need.” CMS also released an Information Collection Request (ICR) for the final guidance and is seeking feedback through April 24, 2024.

A fact sheet is available here.
Senators Receive Response from FTC about PBM Investigations

Key Points:

- On February 26, Senator Chuck Grassley (R-IA) published a letter from the Federal Trade Commission (FTC) responding to Senators’ demands to complete its investigation on pharmacy benefit managers (PBMs).
- In the letter, the FTC said it expects to have materials soon, and companies that fail to comply with orders can be taken to court.

On February 26, Senator Grassley published a letter he received from the Federal Trade Commission in response to Senators’ demands to complete its investigation on PBMs. In the letter, the FTC stated that “no company has turned over sufficient documents and data to be in full compliance with those orders.” The agency added, “We expect to have all the materials very soon. If, however, some of the companies fail to fully comply with the orders or engage in any actionable delaying tactics, the FTC can take them to court to compel compliance.”

FTC’s response was prompted by a letter from Senators requesting the FTC complete its 6(b) study on PBM practices in a timely manner and provide a progress report on the status of the investigation. The Senators that signed the letter include Chuck Grassley (R-IA), Maria Cantwell (D-WA), James Lankford (R-OK), Peter Welch (D-VT), Susan Collins (R-ME), Cindy Hyde-Smith (R-MS), Chris Coons (D-DE), Tommy Tuberville (R-AL), Jerry Moran (R-KS), Jon Tester (D-MT), Shelley Moore Capito (R-WV), Thom Tillis (R-NC), Mazie Hirono (D-HI), and Marsha Blackburn (R-TN).

In June 2022, the FTC “issued Orders to PBMs pursuant to its 6(b) authority to study a range of PBM business practices that may affect drug affordability and access.” In May and June 2023, the FTC expanded its study and issued three additional orders to companies that perform rebate services for their affiliated PBMs.

House Energy and Commerce Hearing on Rare Disease Legislation

Key Points:

- On February 29, the House Energy and Commerce Subcommittee on Health held a hearing to discuss legislation for rare diseases.
- Topics discussed in the hearing included the Inflation Reduction Act drug price negotiation provisions, pediatric cancer, early detection screening, amyotrophic lateral sclerosis (ALS), access to care, and animal testing.
On February 29, the House Energy and Commerce Subcommittee on Health held a hearing entitled “Legislative Proposals to Support Patients with Rare Diseases.” Topics discussed in the hearing included the IRA drug price negotiation provisions, pediatric cancer, early detection screening, ALS, access to care, and animal testing.

Chair Cathy McMorris Rodgers (R-WA) and Subcommittee Chair Brett Guthrie (R-KY) advocated for the ORPHAN Cures Act (H.R. 5539), while Ranking Member Frank Pallone (D-NJ) and Subcommittee Ranking Member Anna Eshoo (D-CA) argued that the bill undermines provisions in the IRA. Subcommittee Ranking Member Anna Eshoo (D-CA) and Representatives Tony Cárdenas (D-CA), Raul Ruiz (D-CA), and others discussed the importance of pediatric cancer research and advocated for the Give Kids a Chance Act (H.R. 3433).

Government Funding Update

Key Points:

- On February 29, Congress passed a Continuing Resolution (CR), moving two shutdown deadlines, including the Agriculture-Food and Drug Administration (FDA) bill from March 1 to March 8 and Health and Human Services (HHS) from March 8 to March 22.
- THE CR does not include funding for several health programs set to expire on March 8 and omits PBM reforms.

On February 29, the House and Senate voted to avert a government shutdown. The CR moved two shutdown deadlines, including the Agriculture-FDA bill, from March 1 to March 8. The bills that were set to expire on March 8, including HHS, were pushed to March 22.

The CR follows reports that top lawmakers have reached a deal on six funding measures, including the Agriculture-FDA bill. According to reports, funding totals and policy stipulations are expected to be released over the next few days.

On March 8, funding expires for several programs including money for community health centers, special diabetes programs, teaching health centers, and the National Health Service Corps. Additionally, provisions avoiding steep cuts to hospitals with a high percentage of Medicaid and uninsured patients are set to expire. The programs did not receive additional funding as part of the CR. The decision comes after Senator Bernie Sanders (I-VT) said he is decreasing his original funding ask for community health centers to $4.4 billion. According to Senator Sanders “We have compromised far more than I would have liked. The Republican proposal was at $4.4 billion. I am not going to accept anything less than what the Republicans passed in the House.”
PBM reforms were not included in this funding bill. According to reports, advocates will look to pass the reforms during a lame-duck session. The decision comes after reports of tension between GOP lawmakers on whether PBM reforms would also apply to the commercial market in addition to Medicare.

Excluded from the CR were the several expired health programs that Congress still must reauthorize, including the Substance Use Disorder Prevention that Promotes Opioid Recovery and Treatment (SUPPORT) for Patients and Communities Act (S. 3393), the Pandemic and All-Hazards Preparedness Act (PAHPA) (S.2333), and the President’s Emergency Plan for AIDS Relief (PEPFAR).

**Upcoming Hearings & Events**

**March 6**

**Pandemic Preparedness:** The House Oversight and Accountability Committee will hold a hearing entitled “Examining the White House’s Role in Pandemic Preparedness and Response.”

**Primary Care:** The Senate Budget Committee will hold a hearing entitled “How Primary Care Improves Health Care Efficiency.”

**March 7**

**Seniors:** The Senate Health, Education, Labor, and Pension Committee will hold a hearing entitled “The Older Americans Act: Supporting Efforts to Meet the Needs of Seniors.”

*For more information about health care issues you may email or call Nicole Ruzinski Bertsch at 202-659-8201. Windsor Warlick and Madeleine Suna contributed to this section.*

**CYBERSECURITY, PRIVACY, AND ARTIFICIAL INTELLIGENCE**

**President Biden Issues Executive Order on Preventing Countries of Concern from Accessing Americans’ Sensitive Personal Data**

**Key Point:**
- President Biden issued an Executive Order aiming to protect the collection and transfer of Americans’ personal data in bulk.
On February 28, President Biden issued an Executive Order on Preventing Access to Americans’ Bulk Sensitive Personal Data and United States Government-Related Data by Countries of Concern. A comprehensive order consisting of eight sections aimed at protecting U.S. national security, the executive order expands the scope of the national emergency declared in Executive Order 13873, Securing the Information and Communications Technology and Services Supply Chain. In that order, President Trump declared a national emergency with respect to increasing cybersecurity threats from foreign actors.

The basis of Biden's Executive Order is detailed in Section 1: “It is the policy of the United States to restrict access by countries of concern to Americans’ bulk sensitive personal data and United States Government-related data when such access would pose an unacceptable risk to the national security of the United States.” It cites the increasing effort by foreign adversaries to access American information in bulk to circumvent U.S. national security. Section 2 grants the Attorney General and Secretary of Homeland Security the power to coordinate with other agency heads to restrict “United States persons” from acquiring, holding, using, or transferring “any property” that is of interest to a foreign power if it “involves bulk sensitive personal data or United States Government-related data,” “is a member of a class of transactions that has been determined by the Attorney General,” “was initiated, is pending, or will be completed after the effective date of the regulations issued by the Attorney General,” or “does not qualify for an exemption provided in, or is not authorized by a license issued pursuant to, the regulations issued by the Attorney General.” Sections 3-8 detail specific policy goals including oversight of the Attorney General in this mission.

President Biden Orders Investigation into Chinese Manufactured Vehicles

Key Point:
- Following remarks by President Biden, the Department of Commerce issued an advanced notice of proposed rulemaking to investigate national security threats connected to Chinese manufactured vehicles in the U.S.

On February 29, the Department of Commerce (DOC) opened an investigation into security threats from the entry of Chinese cars and trucks into the American vehicle market following remarks by President Biden: “China is determined to dominate the future of the auto market, including by using unfair practices. China’s policies could flood our market with its vehicles, posing risks to our national security. I’m not going to let that happen on my watch” (White House). In a notable rebuke of China, President Biden directly called-out China and Chinese car manufacturers: “China imposes restrictions on American autos and
other foreign autos operating in China. Why should connected vehicles from China be allowed to operate in our country without safeguards?” (White House).

U.S. Secretary of Commerce Gina Raimondo commented on the investigation: “To assess these national security concerns, we are issuing an Advance Notice of Proposed Rulemaking to investigate the national security risks of connected vehicles, specifically PRC-manufactured technology in the vehicles. We need to understand the extent of the technology in these cars that can capture wide swaths of data or remotely disable or manipulate connected vehicles, so we are soliciting information to determine whether to take action under our ICTS authorities” (DOC).

Undersecretary for Industry and Security Alan Estevez also commented on the DOC’s actions: “While we benefit greatly from the shift to a more digital and connected world, those connections create new avenues for espionage and sabotage. We must remain vigilant in identifying and securing those vulnerabilities, including potential vulnerabilities present in connected vehicles. Today's action demonstrates that we are taking thoughtful, deliberative, proactive steps to address concerns that connected vehicles may present for U.S. national security” (DOC).

The Office of the National Cyber Director (ONCD) Issues Report on Memory Safety Vulnerabilities

Key Points:
- The ONCD issued a report encouraging old systems to migrate to use memory-safe programming languages and for new developments to invest in using memory-safe programming languages to bolster their cybersecurity posture.

On February 26, the ONCD issued a report titled, “Back to the Building Blocks: A Oath Toward Secure and Measurable Software” which takes steps to build on President Biden’s National Cybersecurity Strategy and outlines two strategic approaches. The report came along with a video address by the National Cyber Director and Assistant Director. A fact sheet released by the White House details that the report addresses the necessity to, “reduce the attack surface in cyberspace that our adversaries can exploit by preventing entire classes of vulnerabilities from entering the digital ecosystem,” and emphasizes the need to “anticipate systemic security risk by developing better diagnostics that measure cybersecurity quality” (White House). The ONCD report highlights that new products that use memory-safe programming languages are investing in a safer future that can deliver enhanced security benefits. It mentioned that migrating “high-impact legacy code” to
memory safe programming languages can help reduce potential cybersecurity vulnerabilities.

**National Institute of Standards and Technology (NIST) Releases Cybersecurity Framework 2.0**

**Key Point:**
- *NIST releases Cybersecurity Framework 2.0, the largest update to NIST's cybersecurity framework since 2014.*

On February 26, NIST released its long-anticipated [Cybersecurity Framework (CSF) 2.0](https://www.nist.gov/cyberframework). CSF 2.0 explicitly aims to help all organizations, not just those in critical infrastructure, which was the target audience of previous versions of NIST's Cybersecurity Framework. The document details that the framework “is designed to help organizations of all sizes and sectors — including industry, government, academia, and nonprofit — to manage and reduce their cybersecurity risks. It is useful regardless of the maturity level and technical sophistication of an organization’s cybersecurity programs.” It details that the core functions of CSF 2.0 are to govern, identify, protect, detect, respond, and recover, which is an organization of cybersecurity outcomes at the highest level.

Released in 2014, [CSF Version 1.0](https://www.nist.gov/eresources/nist-cybersecurity-framework-v10) was published to “help organizations understand, reduce and communicate about cybersecurity risk.” In 2018, [CSF Version 1.1](https://www.nist.gov/eresources/nist-cybersecurity-framework-v11) was released and provided minor updates to the 2014 version. The release of CSF 2.0 marks the largest update to NIST’s cybersecurity framework since the first version.

CSF 2.0 supports the implementation of the National Cybersecurity Strategy, and its governance component emphasizes the importance of incorporating cybersecurity into an organization’s enterprise risk management (ERM) strategy. It also states that this component “addresses an understanding of organizational context; the establishment of cybersecurity strategy and cybersecurity supply chain risk management; roles, responsibilities, and authorities; policy; and the oversight of cybersecurity strategy.”

*For more information about cybersecurity issues you may email Mahlet Makonnen or Frank Vlossak. Joe Maalouf contributed to this section.*
TRADE

RSC Chairman Hern Introduces Anti-CCP Legislation to Restrict Outbound Investments, Remove China’s PNTR Status Amid Calls for Executive Action on De Minimis Shipments

Key Points:

- RSC Chairman Hern (R-OK) has introduced legislation with a bevy of policy recommendations developed by the House Select Committee on the CCP.
- In addition, Senator Brown (D-OH) and Senator Rick Scott (R-FL) have called on President Biden to utilize executive action to mitigate the influence of duty-free de minimis shipments from China.

On February 29, Republican Study Chairman Hern (R-OK) introduced the Countering Communist China Act (H.R. 7476). The legislation, according to a RSC press release, is the “largest and most comprehensive legislation addressing the Chinese Communist Party (CCP) ever introduced in Congress.” The bill includes many legislative recommendations outlined in the House Select Committee on the CCP’s December 2023 report alongside additional suggestions from the Committee’s members which were not included in the report. Notably, the legislation would seek to restrict outbound investments into Chinese tech companies, restrict trade with companies associated with the Chinese military, remove China’s Permanent Normal Trade Relations status, and promote free trade “with Taiwan, the Philippines, Indonesia, Thailand, Malaysia, New Zealand, and the UK.” Notably, the legislation specifically states that tariff rates for PRC goods will revert back to those “set forth under Column 2 of the Tariff Act of 1930” unless Congress passes legislation to institute a new tariff regime for Chinese goods. The bill states that legislation to institute a new tariff regime may be introduced within two years of enactment.

Alongside legislative efforts to combat Chinese trade practices, Senator Brown (D-OH) and Senator Scott (R-FL) have called on the Biden Administration to utilize “broad executive authorities” to curtail the duty-free importation of “illegal products, goods produced with forced labor, and other contraband to the detriment of U.S. manufacturers, workers, and communities.” Within a letter, the two senators assert that the $800 inspection threshold for imported goods has resulted in a “disproportionate application of tariffs on American businesses and is a contributing factor to the fentanyl crisis.” The correspondence further states that Sections 498 and 321 of the Tariff Act of 1930 provide the Biden Administration the executive authority to remove the duty-free status of de minimis shipments. Specifically, the letter notes that Chinese goods tied to forced labor are often imported under the de minimis threshold and undermine the federal government’s enforcement of the Uyghur
Forced Labor Prevention Act (UFLPA) (P.L. 117-78). The two senators also maintain that the de minimis threshold has allowed the mass importation of fentanyl into the U.S. and harmed domestic retailers and manufacturers. The letter calls on President Biden to employ executive action “through either an executive order or rulemaking” to ensure the de minimis goods are subject to import notification requirements, the UFLPA, and importer of record and entry summary requirements that have also applied to other informal entry imports.

**Biden Administration, Congress Take Aim At Chinese Autos Amid Concerns of Forced Labor Ties, Threats to U.S. Auto Industry**

**Key Points:**
- President Biden has directed the Department of Commerce to investigate national security risks tied to autos that use parts from countries of concern.
- The action shortly follows a letter from the Alliance for American Manufacturing cautioning against the impact of the Chinese auto manufacturers on the U.S. auto industry.
- In addition, Senator Hawley (R-MO) has introduced legislation to raise tariffs for Chinese automobiles.

On February 29, President Biden announced that he has directed the Department of Commerce to investigate national security concerns arising from “connected vehicles that incorporate technology from the countries of concern, including China, and consider regulations to address those risks.” According to a White House fact sheet, automakers are increasingly utilizing advanced technologies that present vulnerabilities “if a foreign government gained access to these vehicles’ systems or data.” The release specifically states that “connected autos” utilize technology sourced from China and other countries of concern that threaten national security. As a result, the Commerce Department has issued an advanced notice of proposed rulemaking to investigate relevant national security risks. The White House’s release states that Commerce “intends to use this information to help inform and scope potential regulations to govern the use of technology in vehicles from certain countries.”

The action shortly follows actions by the U.S. Customs and Border Patrol to block the importation of vehicles with parts tied to forced labor practices in Xinjiang, China. On February 21, House Select Committee on the CCP Chairman Gallagher (R-WI) and Ranking Member Krishnamoorthi (D-IL) issued a letter calling on the CEO of Volkswagen Group to immediately cease all operations in and around Xinjiang. On February 20, the Alliance for American Manufacturing (AAM) issued a report that argued that the Chinese automaker
market posed an “existential threat” to the U.S. automotive manufacturing industry. AAM called on Congress and the Biden Administration to “raise tariffs further on Made in China vehicles, tighten and fully enforce USMCA’s ROO (rules-of-origin) so they are not allowed to leak in, and exclude from the pact’s preferential treatment components and vehicles made by companies headquartered in non-market economies like China.” On February 28, Senator Hawley (R-MO) introduced legislation aimed at mitigating the influence of Chinese automakers on the U.S. auto industry. According to a press release, the legislation, named the Protecting American Autoworkers from China Act, would increase the base tariff rate for auto imports from China to 125 percent as well as increase tariffs to all autos made by Chinese automakers “irrespective of where the car is manufactured.” The release specifically notes that the legislation aims to ensure that “Chinese manufacturers cannot use other nations, such as Mexico, as a backdoor to avoid these new tariffs.”

President Biden Issues Executive Order to Strengthen U.S. Protections for Bulk Data Sales to Countries of Concern

Key Point:
- President Biden has issued an Executive Order to prevent bulk sales of U.S. consumer data to countries of concern.

On February 28, President Biden issued an Executive Order that directs the Attorney General to protect U.S. consumer data from being sold en masse to organizations in countries of concern. According to a fact sheet, the EO specifically focuses on protecting the sale of “genomic data, biometric data, personal health data, geolocation data, financial data, and certain kinds of personally identifiable information.” It further explains that President Biden has directed the Department of Justice (DOJ) to issue regulations to protect U.S. consumers’ data as well as sensitive government-related data, including “geolocation information on sensitive government sites and information about military members.” The fact sheet also states that “President Biden continues to urge Congress to do its part and pass comprehensive bipartisan privacy legislation, especially to protect the safety of our children.”

WTO MC13 Extended Following Prolonged Discussions on Fisheries Subsidies and Agriculture Agreements

Key Points:
- MC13 has been extended through March 1st and may be extended further, despite representatives from some member nations having already departed.
▪ The extension was adopted in the hopes of reaching agreements on a Fisheries Subsidies Agreement, a revised Agreement on Agriculture, and an e-commerce moratorium extension.
▪ All three subjects have faced strong division among WTO members.

The World Trade Organization's 13th Ministerial Conference (MC13) has been extended through the end of March 1st, with the possibility of additional extensions to March 2nd or further. Despite the fact that representatives of some WTO member nations have already departed, talks continue on key WTO agenda items. Negotiations at the conference have largely revolved around a Fisheries Subsidies Agreement, with a draft text circulating amongst WTO members on March 1st. Although talks have progressed on the Agreement, WTO members have struggled on a few key issues including transitionary periods for developing nations to adhere to new overfishing and overcapacity requirements. Likewise, talks to revise the existing Agreement on Agriculture have faced mixed results, with provisions regarding public stockholding programs facing strong division. Talks on the extension of an e-commerce moratorium have yet to progress, with some nations like Brazil tying their cooperation on the extended moratorium to negotiations on the Agreement on Agriculture.

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