This Week In Washington


**Biden Administration** – On September 21, the White House issued a fact sheet announcing the establishment of the first-ever White House Office of Gun Violence Prevention. The office will be overseen by Vice President Harris.

Next Week In Washington

**Senate** – The Senate is scheduled to reconvene on Tuesday, September 26 and may continue consideration of [H.R.4366](https://www.congress.gov/bill/117th-congress/house-bill/4366), the Military Construction, Veterans Affairs, and Related Agencies Appropriations Act, and [H.R.3935](https://www.congress.gov/bill/117th-congress/house-bill/3935), to reauthorize and improve the Federal Aviation Administration and other civil aviation programs.

**House** – The House had been scheduled to reconvene on Tuesday, September 26. However, the House currently stands in recess and Members have been advised that ample notice will be given ahead of any potential votes this weekend.
TAX

IRS Launches High-Income Compliance Work Group

Key Points

▪ The IRS announced plans to establish a work group to focus on large or complex passthrough entities.
▪ The work group will be tasked with addressing non-compliance among high-income filers.
▪ The work group will be housed in the IRS Large Business and International division.

On Wednesday, the Internal Revenue Service (IRS) announced plans to establish a work group dedicated to ensuring large and complex passthrough entities are not used as a vehicle for high-income filers to avoid federal taxes. Passthrough entities include partnerships and S-corporations.

While the work group is not expected to be formally stood up until late 2024, IRS efforts to address passthrough entity tax evasion will continue to be a top priority for the IRS. The IRS noted the work group was made possible by the agency’s recent hiring initiative, spurred by the Inflation Reduction Act.

House Budget Chair Arrington Releases Budget

Key Points

▪ Budget proposal aims to reduce deficit by $16.3 trillion over the next decade.
▪ Funding for FY 24 to be rolled back to FY 22 levels and cap future growth by one percent annually.
▪ The budget has received support from House GOP leaders, as well as House conservatives.

This week, House Budget Committee Chairman Arrington (R-TX) released the House’s budget proposal, outlining Republican spending goals for the next 10 years. The proposal, which was marked up and favorably reported out of Committee, aims to reduce the deficit by $16.3 trillion over the next decade, would see $4.6 trillion in discretionary savings and would result in a $130 billion budget surplus at the end of the 10-year period. Additionally, the proposal would decrease FY 24 funding to FY 22 levels and cap year-over-year spending growth at one percent.

The proposal comes as House Republicans have faced challenges agreeing on a plan to fund the government passed the end of the current fiscal year on September 30. Given the proposal’s similarities to House Republicans’ initial plan to raise the debt ceiling this spring, policy priorities like funding the government, and given that the proposed FY 24 Budget makes significant cuts in some discretionary areas, it is not entirely clear if the House will take up the Budget on the floor. This is because supporting it could make result in tough political votes for moderate House Republicans.
Lawmakers Criticize Canadian Digital Services Tax

**Key Points**

- A bipartisan group of lawmakers signed a letter urging the Biden Administration to keep Congress abreast of efforts to combat Canada’s proposed digital services tax.
- Lawmakers warned that Congress would consider retaliatory efforts if Canada does not change its plans to implement the tax.
- In July, over 130 countries agreed to delay the implementation of digital services taxes until 2025, but Canada chose not to delay.

This week, a bipartisan group of lawmakers in the House of Representatives, led by Representatives Pascrell (D-NJ), DelBene (D-WA), Van Duyne (R-TX), and LaHood (R-IL), sent a letter to the Biden Administration, urging it to keep lawmakers abreast of efforts to combat Canada’s proposed digital services tax (DST).

Lawmakers allege the tax – which would apply a three percent tax on digital revenue earned by large foreign and domestic taxpayers – would disproportionately target and harm U.S. companies and workers. The lawmakers go on to say the tax, “raises questions about its [Canada’s] obligations under the United States-Mexico-Canada Agreement and the World Trade Organization Agreement.”

In July, over 130 countries agreed not to implement DSTs until 2025, providing Organization for Economic Cooperation and Development negotiators more time to decide how governments can tax multinational corporations under the Pillar One agreement. Despite this, Canada has decided to continue to pursue the implementation of its DST.

In response, Biden Administration officials and lawmakers have warned the Canadian government the U.S. would be willing to take retaliatory efforts (potentially such as tariffs) if the DST is implemented. Canadian officials have stated they will only back off implementing the tax in January, “if the treaty to implement Pillar One has not come into force.”

**House Ways and Means Chairman Optimistic on End-of-Year Tax Package**

**Key Points**

- House Ways and Means Chairman Smith (R-MO) said he remains optimistic an end-of-year tax package could be adopted.
- House Ways and Means Ranking Member Neal (D-MA) said the House GOP’s impeachment inquiry into President Biden could prevent tax negotiations from being successful.
- Senate Finance Committee Chairman Wyden (D-OR) has said he had “good talks” with Chairman Smith regarding a bipartisan tax bill during August recess.

This week, House Ways and Means Chairman Smith (R-MO) said he remains optimistic about the prospects of a bipartisan tax package being adopted before the end of the year. During an event on
Wednesday, Chairman Smith stated he believes House Republicans and Senate Democrats would be able to compromise on a package that includes business tax breaks and an updated child tax credit.

House Ways and Means Ranking Member Neal (D-MA), on the other hand, said the House GOP’s impeachment inquiry into President Biden could make compromise on a tax package difficult. Those comments were made after Chairman Smith said the Committee would release additional tax documents related to the impeachment inquiry by the end of September.

Chairman Smith’s comments come after Senate Finance Chairman Wyden (D-OR) recently said he had “good talks” with Chairman Smith regarding a bipartisan tax bill during August recess.

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 Subcommittee Holds Hearing with Division of Investment Management Director William Birdthistle

On September 19, the House Financial Services Committee’s Subcommittee on Capital Markets held a hearing entitled, “Oversight of the SEC’s Division of Investment Management.”

Chairwoman Ann Wagner (R-MO) expressed concern about the SEC’s liquidity risk management and swing pricing proposal, arguing that it would create investor confusion and weaken the financial returns of investors. She added that the proposal lacks a solid evidentiary foundation and rigorous analysis. She expressed concern about the SEC’s proposal on predictive data analytics, saying that it would limit investor choice, increase costs, and lead to a decline in retail investor participation. Ranking Member Brad Sherman (D-CA) said that while the Division should be “praised” for most of its rulemaking and actions, he expressed concern about the swing pricing rule. He explained that under a swing pricing system, large investors do not need a mutual fund and can instead create a mirror portfolio. He added that institutional investors under the collective investment trusts (CITs) are not subject to this rule. He called the proposal “unfair” and asked the Division to modify or abandon this proposal.

House Financial Services Committee Holds Markup CBDC and National Security-related bills

Key Points:

10 bills were favorably reported with unanimous support, while the CBDC Anti-Surveillance State Act was advanced along party lines.

On September 20, the House Financial Services Committee a markup of 11 bills, including:
H.R. 3378, the "Agricultural Security Risk Review Act," which was favorably reported as amended by a vote of 42-0.

H.R. 5409, the "Safeguarding American Farms from Foreign Influence Act," which was favorably reported as amended by a vote of 44-0.

H.R. 760, the "Chinese Military and Surveillance Company Sanctions Act," which was favorably reported as amended by a voice vote.

H.R. 5472, the "FinCEN Oversight and Accountability Act of 2023," which was favorably reported as amended by a vote of 46-0.

H.R. 5485, the "Financial Privacy Act of 2023," which was favorably reported as amended by a vote of 47-0.

H.R. 5119, the "Protect Small Business and Prevent Illicit Financial Activity Act," which was favorably reported as amended by a vote of 47-0.

H.R. 5557, the "Combatting Foreign Surveillance Spyware Sanctions Act," which was favorably reported as amended by a vote of 47-0.

H.R. 5523, the "Financial Access Improvements Act," which was favorably reported as amended by a vote of 47-0.

H.R. 5512, the "Russia and Belarus Financial Sanctions Act of 2023," which was favorably reported as amended by a vote of 47-0.

H.R. 5524, the "Foreign Affiliates Sharing Pilot Program Extension Act," which was favorably reported as amended by a vote of 47-0.

H.R. 5403, the "CBDC Anti-Surveillance State Act," which was favorably reported as amended by a vote of 27-20.

When discussing the CBDC Anti-Surveillance State Act, Chairman Patrick McHenry (R-NC) argued that the bill protects Americans’ privacy and the U.S. financial system from the risks a CBDC would pose. He said the bill builds on the principles that Republicans developed last Congress to guide the evaluation of a potential CBDC. Several other Republicans echoed McHenry’s comments. Ranking Member Maxine Waters (D-CA) argued that the bill will stifle research and will keep the U.S. behind other countries, including China, as they race forward to develop a global standard for CBDCs. She emphasized the importance of the CBDC research being conducted by the Biden Administration and Federal Reserve because no one fully understands all of their potential benefits and challenges, or how their implementation could affect the preeminence of the U.S. dollar and global finance more broadly. She said she is “disappointed” by the bill because of its anti-innovation stance. Several other Democrats on the committee echoed Waters’ comments.

SEC Holds Open Meeting to Adopt Final Rule Amending the Fund Names Rule

Key Point:
- The SEC adopted amendments to the Investment Company Act’s “Names Rule,” which are aimed at addressing fund names that are likely to mislead investors about a fund’s investments and risks

On September 20, the Securities and Exchange Commission (SEC or Commission) held an open meeting to discuss and vote on a final rule amending the Investment Company Act’s “Names Rule,” which was
approved by a vote of 4-1, with Commissioner Mark Uyeda voting no. The amendments include enhanced disclosure requirements for terminology used in fund names, including a requirement that any terms used in the fund’s name that suggest an investment focus must be consistent with those terms’ plain English meaning or established industry use. The final rule also includes additional reporting and recordkeeping requirements for funds regarding compliance with the names-related regulatory requirements.

SEC Chair Gary Gensler emphasized that it is important that a fund’s portfolio matches its name. He likened the rules to truth in advertising and said the final rule is about protecting investors. He explained that this will apply to funds whose names suggest a focus on particular characteristics, like investment focus on ESG-related factors as well as thematic names, like “artificial intelligence” or “big data.” He added that the final rule requires funds that drift from the 80 percent threshold to come back into compliance in 90 days. He noted that this number was 30 days in the proposal but that it was lengthened after reviewing comments the Commission received during the proposal’s comment period. He said the new amendments will require a fund to define the terms in its name, indicate on a periodic report which holdings count towards the 80 percent threshold, and how derivatives interplay with the 80 percent threshold.

Commissioner Hester Peirce said the scope of the final rule gave her pause because of a “significant” expansion of the Names Rule. She expressed concern that the new amendments could limit the names funds could use which could lead to more generic names and about the costs and potential ambiguity about what funds are included. She said despite this, that the final rule is “better” and “more practical” than the proposed rule and stated she would support the rule.

Commissioner Mark Uyeda said that while the adopting release makes a number of changes from the proposal, it does not go far enough. He argued that the new rule overemphasizes the importance of a fund’s name and warned that the new amendments will entail significant compliance costs for funds, which will be borne by investors. He argued that while the adopting release provides guidance on what is meant by particular characteristics, practically every term can fall under this. He expressed concern about the lack of transparency about how the SEC’s staff will administer the rule and he encouraged SEC staff to release guidance on how the staff will maintain internal consistency in enforcing the rule. He expressed opposition to the rule.

**Senate Banking Committee Holds Hearing on Artificial Intelligence**

On September 20, the Senate Banking Committee held a hearing entitled, “Artificial Intelligence in Financial Services.” Senators discussed actions Congress and regulators should take regarding AI, the potential for AI as a tool to commit fraud and manipulate markets, AI’s impact on lending, and how to combat bias in AI, among other topics.

Chairman Sherrod Brown (D-OH) emphasized the need to ensure that AI is used to help consumers and savers rather than exploiting them. He stressed that if emerging technologies are not covered by existing rules, then Congress must pass new ones. He warned that without proper guardrails, AI could be used by “Wall Street and Silicon Valley to swindle Americans out of their savings, trap them in debt,
and strip them of their financial security.” He said the U.S. should be wary of unleashing untested technology into widespread public use and argued that Congress must require rigorous testing and evaluation of AI models and programs before they are used in the real world. Several Democrats echoed parts of Brown’s comments. Acting Ranking Member Mike Rounds (R-SD) argued that the financial services industry is uniquely positioned to adapt to emerging technologies. He said most financial regulation is already technology-neutral and outcome-based. He emphasized the need for transparency and explainability in decision-making and said Congress may play a role in this. He called on Congress to take a pro-innovative stance. He warned that halting progress can be dangerous especially when countries like China show no plans of slowing down. He called on financial regulators to allow Congress to act and to resist the urge to over-regulate new technology. Several Republicans echoed parts of Rounds’ comments.

FDIC Chairman Gruenberg Speaks on the Financial Stability Risks of Nonbank Financial Institutions

On September 20, Federal Deposit Insurance Corporation Chairman Martin Gruenberg gave remarks at the Exchequer Club on the financial stability risks of nonbank financial institutions. In his speech, Gruenberg highlighted the impact nonbank financial institutions have on the broader provision of financial services, including their contribution to the 2008 financial crisis. He said he would like to see the Financial Stability Oversight Council (FSOC) consider applying tailored enhanced prudential standards and enhanced reporting requirements to certain nonbanks financial companies. He added that he would like to see FSOC, the Office of Financial Research, and individual FSOC agencies work together to establish a reporting framework that ensures FSOC has the information necessary to assess the financial stability risks of nonbanks and the activities in which they engage.

CFPB Begins Rulemaking Process to Remove Medical Bills from Credit Reports

On September 21, the Consumer Financial Protection Bureau (CFPB) announced it was starting a rulemaking process to remove medical bills from Americans’ credit reports. If finalized, the rulemaking would: (1) remove medical bills from consumers’ credit reports; (2) stop creditors from relying on medical bills for underwriting decisions; and (3) stop coercive collection practices.

CFPB Director Rohit Chopra released a statement in support of the announcement, saying “research shows that medical bills have little predictive value in credit decisions, yet tens of millions of American households are dealing with medical debt on their credit reports. When someone gets sick, they should be able to focus on getting better, rather than fighting debt collectors trying to extort them into paying bills they may not even owe.”

Upcoming Hearings and Meetings

September 26

FACI Open Meeting: The Federal Advisory Committee on Insurance will hold an open meeting to discuss topics related to climate-related financial risk and the insurance sector, and will also discuss cyber insurance developments and international insurance issues. Additionally, FACI will receive status
updates from each of its subcommittees and from FIO on its activities, as well as consider any new business.

**September 27**

**SEC Oversight:** The House Financial Services Committee will hold a hearing with SEC Chair Gensler testifying.

**Flood Insurance:** The Senate Banking Committee will hold a hearing entitled, “The State of Flood Insurance in America.”

**SAFER Banking Act Markup:** The Senate Banking Committee will markup the SAFER Banking Act (S. 2860).

**Foreign Ownership in U.S. Agriculture:** The Senate Agriculture Committee will hold a hearing on foreign ownership in U.S. agriculture.

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

**ENERGY & ENVIRONMENT**

Upcoming Hearings and Events

**September 26**

**Energy and the Inflation Reduction Act:** The New York Energy Forum will hold a panel discussion titled “The Inflation Reduction Act of 2022 and Energy Implications”.

**September 27**

**Science and the EPA:** The House Science, Space, and Technology Committee will hold a hearing on “Science and Technology at the EPA”. Environmental Protection Agency (EPA) Administrator Michael Regan is scheduled to testify. As described in the hearing charter, the “purpose of this hearing is to discuss and review the science and technology activities at the Environmental Protection Agency (EPA) and the use of science in the Agency’s regulatory decision-making processes.”

**September 28**

**Critical Minerals and China:** The Senate Energy and Natural Resources Committee will hold a hearing on “Opportunities to Counter the People’s Republic of China’s Control of Critical Mineral Supply Chains”.

**Electric Grid:** The House Energy and Commerce Committee’s Energy, Climate, and Grid Security Subcommittee will hold a hearing titled “Powering America’s Economy, Security, and our Way of Life: Examining the State of Grid Reliability.”
**Water Infrastructure:** The House Transportation and Infrastructure Committee’s Water Resources and Environment Subcommittee will hold a hearing titled “Clean Water Infrastructure Financing: State and Local Perspectives and Recent Developments”. Witnesses testifying are: Lori Johnson, Assistant Chief, Financial Services Division, Oklahoma Water Resources Board, on behalf of the Council of Infrastructure Financing Authorities; Todd P. Swingle, Chief Executive Officer and Executive Director, Toho Water Authority, on behalf of the National Association of Clean Water Agencies; James M. Proctor II, Senior Vice President, Legal and External Affairs, and General Counsel, McWane Inc., on behalf of the United States Chamber of Commerce; and Rebecca Hammer, Deputy Director, Federal Water Policy, Natural Resources Defense Council.

**October 10-11**
**Energy Bar Association:** The Energy Bar Association will hold its Mid-Year Energy Forum.

**October 31-November 1**
**Pipeline Safety R&D:** The Pipeline and Hazardous Materials Safety Administration (PHMSA) will hold the “Pipeline Safety Research and Development Forum 2023”. The event is intended “to help generate a national research agenda that identifies technical challenges and fosters solutions to improve pipeline safety and protect the environment.”

**November 27-December 1**
**Distribution Gas Pipeline Leak Detection and Class Location Rulemakings:** PHMSA’s Gas Pipeline Advisory Committee (GPAC) will hold a meeting to discuss the Notice of Proposed Rulemaking (NPRM) titled “Pipeline Safety: Gas Pipeline Leak Detection and Repair”. Section 113 of the “Protecting our Infrastructure of Pipelines and Enhancing Safety (PIPES) Act of 2020” directed PHMSA to promulgate regulations that update leak detection and repair requirements for natural gas pipelines to incorporate advanced leak detection technologies and procedures. The GPAC also plans to discuss the NPRM titled “Pipeline Safety: Class Location Change Requirements”.

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**

**HELP Committee Markup of Health Care Bills**

**Key Points:**
- On September 21, the Senate Health, Education, Labor, and Pensions (HELP) Committee held a markup on four health care bills.
- As amended, the Bipartisan Primary Care and Health Workforce Act was favorably reported by a vote of 14-7.

On September 21, the Senate HELP Committee held a markup and favorably reported several primary care legislation bills. The Committee favorably reported the following bills to the Senate:
• The PREEMIE Reauthorization Act of 2023 (S. 1573), as amended, by a vote of 20-1.
• The Preventing Maternal Deaths Reauthorization Act of 2023 (S. 2415) by a vote of 20-1.
• The Gabriella Miller Kids First Research Act 2.0 (S.1624), as amended, by a vote of 20-1.
• The Bipartisan Primary Care and Health Workforce Act (S. 2840), as amended, by a vote of 14-7.

Most of the committee discussion at the markup focused on the Bipartisan Primary Care and Health Workforce Act. HELP Committee Chairman Bernie Sanders (I-VT) expressed concerns about the United States’ health care system. He said the Bipartisan Primary Care and Health Workforce Act would expand access to health care and reduce costs. He noted the bill would save the federal government over $40 billion over the next three years. Senator Roger Marshall (R-KS) also expressed concerns about the nation’s health care system. Other committee members expressed concerns about the shortage of nurses and the lack of hospital and drug pricing transparency.

The bill contains provisions to require community health centers to provide mental health and dental care. The bill also includes provisions to fund programs to increase faculty to train health care workers. The bill increases funding for the National Health Service Corps and allocates $5.8 billion annually for community health centers.

Senator Bill Cassidy (R-LA), who opposed the bill, offered and withdrew 19 amendments during the markup. He expressed concern about the excessive discretionary spending included in the bill. Senator Tammy Baldwin (D-WI) expressed concern that the legislation would reduce Prevention and Public Health Fund funding.

Senators Mike Braun (R-IN), Lisa Murkowski (R-AK), and Roger Marshall (R-KS) joined all Democrats on the Committee in voting for the bill.

CMS Report on State Medicaid Disenrollment

Key Points:
• The Centers for Medicare and Medicaid Services (CMS) helped around 500,000 children and other individuals regain Medicaid and Children’s Health Insurance (CHIP) coverage.
• House Energy and Commerce Ranking Member Frank Pallone (D-NJ) and Senate Finance Committee Chair Ron Wyden (D-OR) applauded CMS for ensuring states comply with federal law.

On September 21, CMS announced around 500,000 children and other individuals who were improperly disenrolled from Medicaid or CHIP coverage will regain their coverage and will be protected from future improper disenrollment. This announcement is a follow-up to a letter CMS sent to all states on August 30 requiring them to report whether their systems inappropriately disenroll children and families from Medicaid and CHIP coverage. The report found that 30 states reported having an issue with their systems and were required to pause procedural disenrollment until the systems were fixed.
House Energy and Commerce Ranking Member Frank Pallone (D-NJ) and Senate Finance Committee Chairman Ron Wyden (D-OR) released a statement applauding CMS for taking action on this issue. They said, "Ordering states to pause redeterminations and reinstate coverage for those who incorrectly lost it, particularly children, is the right approach for CMS to take on behalf of families who count on affordable health care through Medicaid.”

**HHS FY 2024 Contingency Staffing Plan**

*Key Point:*
- The U.S. Department of Health and Human Services (HHS) released the contingency staffing plan for fiscal year (FY) 2024.

On September 21, HHS announced its FY 2024 contingency staffing plan in the event of a government shutdown. Approximately 58 percent of HHS staff will be retained during a government shutdown. The plan also includes specific lapse plans for HHS operating divisions such as CMS, the Centers for Disease Control and Prevention, and the Food and Drug Administration (FDA).

The Medicare and Medicaid programs will continue in the event of a shutdown. The FDA will continue drug and medical device reviews, and HHS will continue to monitor for potential disease outbreaks.

**House Hearing on the Inflation Reduction Act**

*Key Point:*
- On September 20, the House Energy and Commerce’s Subcommittee on Oversight and Investigations held a hearing on the Inflation Reduction Act’s (IRA) price-setting provisions.

On September 20, the House Energy and Commerce’s Subcommittee on Oversight and Investigations held a hearing entitled “At What Cost: Oversight of How the IRA’s Price Setting Scheme Means Fewer Cures for Patients.” Topics discussed in the hearing include the impact of drug price negotiations, medical innovation and access to drugs, and health care costs.

Chairwoman Cathy McMorris Rodgers (R-WA) and Subcommittee Chairman Morgan Griffith (R-VA) expressed concern that the drug pricing provisions in the IRA are unconstitutional and would stifle medical innovation. Democrats on the committee praised the IRA for reducing drug costs for Medicare beneficiaries. They also criticized drug manufacturers for attempting to stop the program’s implementation.

Representative Scott Peters (D-CA) called on Congress to examine the hospital pricing practices and the role of pharmacy benefit managers (PBMs) in addressing rising health care costs. He also urged Congress to increase the waiting period for small-molecule drugs to be considered for negotiation from nine to 13 years.
House Hearing on Pharmacy Benefit Managers

Key Point:
- On September 19, the House Oversight and Accountability Committee held a hearing on PBMs.

On September 19, the House Oversight and Accountability Committee held a hearing entitled “The Role of Pharmacy Benefit Managers in Prescription Drug Markets Part II: Not What the Doctor Ordered.” Topics discussed in the hearing include vertical integration and competition, pharmacy benefit manager practices, health care costs, transparency, and the IRA.

Republicans and Democrats criticized PBMs for raising health care costs and engaging in anti-competitive practices. Members also criticized the PBM industry for lacking competition, noting just three PBM companies control more than 80 percent of the market.

JC Scott, President and CEO of the Pharmaceutical Care Management Association, called on Congress to address abuses in the medical patent system that prevent generic drugs from entering the market. There was bipartisan agreement for Congress to act on PBMs.

Upcoming Hearings and Events

**September 27**
*Medicare:* The Senate Budget Committee will hold a hearing entitled “Medicare Forever: Protecting Seniors by Making the Wealthy Pay Their Fair Share.”

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

**CYBERSECURITY, PRIVACY, AND ARTIFICIAL INTELLIGENCE**

California State Legislature Passes Delete Act

Key Points:
- The California State Legislature greenlighted the California Privacy Protection Agency (CPPA) to develop a plan to allow for single request data deletion across 500 registered data brokers.

The California State Legislature passed the Delete Act (SB-362) which would allow the CPPA to develop a system that allows California residents to make a single data deletion request encompassing over 500 registered data brokers in the state. The CPPA would be given until 2026 to develop the program. Although California Governor Gavin Newsom has not indicated if he will sign the bill into law, CPPA Executive Director Ashkan Soltani said: “We’re pleased the Legislature has passed SB 362, and we’re looking forward to the Governor signing the bill into law.”
The Delete Act patches an important loophole in California statute. Under the current law, individuals can request their data that was collected directly by individual brokers be deleted, but the law makes no provision for the deletion request regarding data aggregations. That is, if an individual requested their data be deleted and the broker collected the data from another source i.e. not directly from the individual, the current law makes no obligation for the data to be deleted by request.

Director of Au Kemp Venture, Tom Kemp, stated: “In post-abortion rights America, the selling of sensitive data such as reproductive healthcare and precise geolocation has now made things intolerable for many people.” He added: “hen, when you factor in angst that our personal data will also be fed into generative AI, there is now significant concern over the potential weaponization of data that is facilitated via data brokers' business model” (iapp).

Federal Trade Commission (FTC) Bureau of Consumer Protection Director Sam Levine called to end the era of tech self-regulation and for AI regulation Framework

Key Points:

- At the National Advertising Division Annual Conference, Director of the FTC Bureau of Consumer Protection, Samuel Levine, said AI self-regulation poses a danger to consumers privacy rights, and broader tech self-regulation has failed in providing adequate consumer protection.
- Levine suggested several new rules to reign in self-regulation of AI technologies.

Levine said it is crucial to acknowledge and learn from the mistakes of tech self-regulation in order to confront the next wave of emerging technologies. Levine stated “self-regulation can be successful when there are clear, meaningful policy objectives; a dedicated, independent institutional structure to develop and enforce rules; and, most importantly, when there is a clear legal framework underlying the scheme and an external enforcer – like the FTC – able to act as a cop on the beat to enforce the law effectively.”

When it comes to AI, Levine said self-regulation cannot work. He recognized generative AI poses a significant risk to consumers if not regulated appropriately. He stated the FTC learned from its mistakes in self-regulation with the Web 2.0 boom in the early 2000s, and they are making improvements for AI. He also said startups need to have a chance against the established big-tech companies in the generative AI space. To address this, the FTC banned non-compete agreements between big tech companies.

Levine noted the FTC is using greater enforcement to crack down on deceptive practices and it is expanding new rules to reign in AI self-regulation such as passing a rule to combat using algorithmic learning to deceive consumers, passing an impersonator rule to seek civil penalties and money for consumers harmed by voice-cloning and other technologies that defraud the public, and passing a proposed “fake review” rule which would increase the cost for those that use AI to generate fake reviews.
Cyber Experts Recommend Cybersecurity and Infrastructure Security Agency (CISA) Should Focus on Strengthening Threat Hunting Across Networks and Increasing Visibility into Unmanaged Devices

Key Points:
- While CISA transitions from the National Cybersecurity Protection System (NCPS) into the Cyber Analytics and Data System (CADS), experts recommend “bolstering” threat hunting across agency networks and increasing visibility into unmanaged devices.

CISA is building the Continuous Diagnostics and Mitigation (CDM) program, which will “provide agencies with cybersecurity tools, capabilities, and services to address vulnerabilities across federal networks.” Chair of the House Homeland Services Subcommittee on Cybersecurity and Infrastructure Protection, Andrew Garbarino (R-N.Y.), said during a September 19 hearing, “The direction CISA takes these programs, and to what extent they are administered as true shared services with CISA covering continued costs, will dictate CISA’s posture toward other federal agencies moving forward... Whether CISA acts as a service provider or an advisor toward other agencies is a fundamental question, and Congress and CISA must both be consistent in how they approach it, across CISA’s many missions and programs.”

CISA is offering an expanded list of shared cyber services to agencies to streamline oversight of federal networks. Smaller agencies are allowed access to CDM services such as cloud-based tools at no cost, yet larger agencies will have to pay. Stephen Zakowicz, Vice President of CGI federal, said larger federal agencies have unique needs that cannot be met by the basic CDM services umbrella.

CISA requested approximately $425 million in fiscal year 2024 to launch the new Cyber Analytics and Data System (CADS) program. Budget documents describe the CADS program as “a robust and scalable analytic environment capable of integrating mission visibility data sets and providing visualization tools and advanced analytic capabilities to CISA cyber operators.”

Solarium Commission Requests Further Action on Delayed Cybersecurity Recommendations in Annual Report

Key Points:
- With 70 percent of the Solarium Commission’s 2020 recommendations for improving the nation’s cybersecurity infrastructure implemented, chairmen of the Commission warn it is urgent to continue improving cybersecurity with attacks rampant.

Among the recommendations that remain to be implemented are, “clarifying liability for federal cyber response efforts, modernizing campaign regulations to promote cybersecurity defenses, funding research and development centers to explore cybersecurity insurance certificates, the formation of congressional cybersecurity committees and establishing a national breach notification law.”

The Solarium Commission was established in 2019 as part of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 to “develop a consensus on a strategic approach to defending the United States in cyberspace against cyber attacks of significant consequences." Their report laid out a...
new strategic approach to cybersecurity called “layered cyber deterrence,” which aimed to “reduce the probability and impact of cyberattacks of significant consequence.”

In the annual implementation report, of the 116 total recommendations, 42 have been fully implemented, 36 are “nearing implementation”, 26 are “on track” to being implemented, and 11 are delayed. One recommendation, the creation of a House Permanent Select and a Senate Permanent Select Committee on Cybersecurity, is facing “significant barriers”. One of the “on track” recommendations is the passage of a national data security and privacy protection law, which has been garnering momentum from many experts in the cybersecurity space recently.

**Department of Homeland Security (DHS) Seeks to Trim Down Reporting Requirements**

*Key Points:*
- The DHS released a 107 page report with recommendations for the Biden Administration to clear up incident reporting requirements for U.S. critical cyber infrastructure operators.

“Harmonizing” reporting requirements has been a key part of the Biden Administration’s efforts to develop more effective cybersecurity policy. CISA Director Jen Easterly said in a statement, “Reporting cyber incidents is critical to the nation’s cybersecurity: It allows us to spot trends in real-time, rapidly render assistance to victims, and share information to warn other potential targets before they become victims...We also recognize that the need for this information must be balanced with the burdens placed on industry, ensuring that requirements are harmonized and streamlined as effectively as possible.” CISA will use the recommendations to develop its proposed rule on cyber incident reporting, which is expected next year.

The DHS report recommends the requirements and submission process for incident reporting be as uniform as possible across the private and public sectors: “Having a unified reporting requirement across critical infrastructure is expected to help both the private sector and federal government better understand the threat landscape while also assisting in prioritization efforts.”

The report also recommends the federal government adopt a definition for a “reportable cyber incident,” that incidents which impact “national and economic security and safety” are required to be more rapidly reported than the current 72-hour reporting timeline, that impacts to personal private information should be treated with greater flexibility, and that the process for engaging with victims of cyber incidents should be improved to prevent multiple agencies from asking for the same information.

**FTC Nominees Encourage Congress to Pass Federal Privacy Law**

*Key Points:*
- FTC nominees pressed the need for a comprehensive privacy law to protect consumers and streamline regulations for tech companies.

Following Virginia passing a privacy law due to an absence of federal regulation, Andrew Ferguson, a Republican nominee for FTC Commissioner said it is important to find a solution to the “current
patchwork” of state efforts (Cyberscoop). The FTC recently led a rulemaking campaign to regulate the collection of consumer data. Melissa Holyoke, another Republican nominee, said the FTC is equipped to take the role of enforcement. Rebecca Slaughter, the Democratic FTC commissioner, expressed concern in Congress that the agency has “overstepped its authority. She said, “the agency can’t do in regulation what it could not do in individual enforcement action.” Slaughter said anything the FTC does is far less significant than any legislation Congress would pass.

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

TRADE

House Ways and Means Subcommittee Discusses GSP Reform Amid Bipartisan Calls for Program’s Renewal

Key Points:

- The House Ways and Means Trade Subcommittee held a hearing to discuss the reauthorization of the Generalized System of Preferences (GSP).
- The hearing included discussions on reforming the program’s evaluation methodologies and eligibility criteria, including changes related to China.
- The event follows a letter sent by a bipartisan coalition of House members in July to House Ways and Means leadership calling for the program’s renewal.

On September 20, 2023, the House Ways and Means Subcommittee on Trade held a hearing to discuss the reauthorization of the Generalized System of Preferences (GSP). The program, which expired in 2020, allows eligible developing countries to import certain duty-free goods into the U.S. market. The committee’s discussions pertained to the program’s economic, geostrategic, and foreign policy benefits alongside requests for specific reforms.

Within his opening statement, Subcommittee Chairman Adrian Smith (R-NE) supported reevaluating the program’s reauthorization, noting the ability of the program to influence global policies and improve living conditions for workers. He also praised the program’s potential to mitigate supply chain vulnerabilities, stating that “GSP can help shift key supply chains out of adversarial nations like China.” In addition, he noted the program can provide the Office of the U.S. Trade Representative additional leverage to negotiate trade agreements that benefit domestic industries, specifically citing the advantageous conditions established for U.S. agricultural producers under GSP. Following Subcommittee Chairman Smith, Subcommittee Ranking Member Earl Blumenauer (D-OR) called for additional criteria within the program to promote enhanced labor conditions, environmental stewardship and conservation practices, and human rights protections in developing nations.

In addition to discussions over how GSP can benefit U.S. policy goals, witnesses called for additional scrutiny on the program’s rule-of-origins mandate thresholds and competitive needs levels provisions.
Ways and Means Chairman Jason Smith (R-MO) suggested that the rule-of-origin mandate for GSP-qualified imports, which only requires 35 percent of a good to be sourced in a GSP member nation, should be increased to 70 percent and include materials sourced from the U.S. Chairman Smith also inquired into the utility of limits on GSP benefits for member countries, to which witnesses suggested be removed or altered to reflect a country’s total participation in the U.S. market.

The hearing follows a letter signed by a bipartisan coalition of 66 House members that was sent to the House Ways and Means leadership in July. The letter advocated for the program's reauthorization and cited the economic and geopolitical benefits of diversifying U.S. supply chains.

**China Appeals WTO Ruling on Section 232 Retaliatory Duties**

**Key Points:**

- China has appealed a WTO report that prohibited the country’s retaliatory duties on Section 232 tariffs.
- The Chinese government argues that the U.S. tariffs have unduly safeguarded domestic steel industries.
- The U.S. maintains that Section 232 tariffs were imposed through national security justifications permitted by the WTO.

On September 19, 2023, the Chinese government issued an appeal to the World Trade Organization (WTO) to reevaluate the legality of the country’s retaliatory duties on Section 232 aluminum and steel tariffs. The appeal follows a report by the WTO in mid-August which found that the Chinese duties were not justified under its rules. The initial dispute, which was filed by China in 2018 in response to the Trump-era tariffs, argues that American tariffs on Chinese aluminum and steel goods constituted a “safeguard” measure for the U.S. steel industry. The final report classified the American tariffs as “national security” measures and did not justify the “rebalancing” duties deployed by China.

According to remarks published by China’s WTO delegation, the country maintains that it reserves the right to initiate rebalancing actions in response to safeguarding measures from other member countries. The release also includes claims that the WTO report improperly determined the Section 232 tariffs as national security measures and that the ruling has “opened another ‘black hole’ for certain members who adopt unilateralist and protectionist measures to evade their obligations.” In response, the U.S. has stated that “China illegally retaliated with sham ‘safeguard’ tariffs.”

The U.S. is currently blocking attempts to fill the WTO Appellate Body, which currently possesses a backlog of nearly 30 appeals. Without filling the vacancies, the Chinese appeal will be indefinitely placed on hold.
Secretary Raimondo Cautions Weakened CHIPS and Science Act Under Government Shutdown

Key Points:

▪ Secretary of Commerce Gina Raimondo cautioned against the operational impacts of a government shutdown in a House Science, Space, and Technology hearing.  
▪ She stated that a government shutdown is likely to reduce the Department of Commerce's ability to promote domestic semiconductor manufacturing. 
▪ The agency’s 2021 government shutdown contingency plan would drastically limit its staff and may impact the flow of U.S. imports of steel and aluminum.

On September 19, 2023, Secretary of Commerce Gina Raimondo spoke at a House Science, Space, and Technology Committee hearing about the impacts of a government shutdown on the Department of Commerce. The hearing, which aimed to discuss the implementation of the CHIPS and Science Act (P.L. 117-167), included comments from Sec. Raimondo outlining the operational risks and national security concerns that a government shutdown could create.

The CHIPS and Science Act authorized the Commerce Department to administer subsidies and grant programs to boost domestic manufacturing of semiconductors. In the event of a government shutdown, the agency would only be able to access funds appropriated for minimum operations and programs appropriated through non-annual means. Likewise, the adoption of a continuing resolution (CR) would likely establish FY23 funding levels for the agency. When questioned, Sec. Raimondo said a CR or lapse in appropriations would result in the program coming “to a grinding halt.”

The Commerce Department’s 2021 Shutdown Contingency Plan would reduce the agency’s workforce by approximately 83 percent. Additionally, the report notes that “all steel mill imports into the United States require a license issued by the Steel Import Monitoring and Analysis (SIMA) office” and states that additional coordination between the International Trade Administration and U.S. Customs and Border Protect would be necessary to “ensure that the flow of [steel mill] imports is not impeded.”

Upcoming Hearings and Events

September 28

Critical Mineral Supply Chains: On Thursday, September 28, the Senate Energy and Natural Resources Committee will hold a hearing entitled, “Full Committee Hearing to Examine Opportunities to Counter the People’s Republic of China’s Control of Critical Mineral Supply Chains Through Increased Mining and Processing in the United States as well as International Engagement and Trade.” The hearing will take place at 366 Dirksen Senate Office Building at 10:00 AM.

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