

March 8, 2019

Washington Update

This Week In Congress

House – The House passed H.R. 1, the “**For the People Act of 2019**,” which includes ethics reforms, voting rights provisions, and mandatory disclosure of presidential tax returns. The House also passed H. Res. 183, which condemns anti-Semitism and anti-Muslim discrimination.

Senate – The Senate confirmed the following nominations: John Fleming, to be Assistant Secretary of Commerce for Economic Development; Allison Jones Rushing, to be United States Circuit Judge for the Fourth Circuit; Chad Readler, to be United States Circuit Judge for the Sixth Circuit; and Eric Murphy, to be United States Circuit Judge for the Sixth Circuit.

Next Week In Congress

House – The White House is expected to submit the President’s Fiscal Year (FY) 2020 Budget Request to Congress next week. Additional materials are expected to be released later in the month.

The House schedule for next week can be found [HERE](#).

Senate – The Senate is expected to consider the nomination of Paul Matey, to be United States Circuit Judge for the Third Circuit.

TAX

House Ways and Means Holds Hearing on Infrastructure

Key Points:

- *Chairman Neal (D-MA) said the U.S. must utilize programs like the Low Income Housing Tax Credit and the New Markets Tax Credit to help re-invest and revitalize infrastructure.*
- *Ranking Member Brady (R-TX) stated that raising taxes on small businesses is not the best way to help increase infrastructure funding.*

On Wednesday, the House Ways and Means Committee held a [hearing](#) entitled “Our Nation’s Crumbling Infrastructure and the Need for Immediate Action.” In his opening remarks, Chairman Richard Neal (D-MA) said the nation must “continue to re-invest and revitalize our urban neighborhoods and rural communities through successful programs like

<u>Table of Contents</u>	
Tax	1
Financial Services	3
Energy & Environment	8
Health	10
Trade	12

the Low Income Housing Tax Credit and the New Markets Tax Credit.” He mentioned that the U.S. faces the largest infrastructure funding gap in the world and that it would cost at least \$2 trillion over the next decade to fix.

Ranking Member Kevin Brady (R-TX) argued that the U.S. must do everything it can to maintain its competitiveness in the global market. He also cautioned against raising funds for infrastructure by raising taxes on local small businesses as it would make those businesses less competitive.

In addition, House Transportation and Infrastructure (“T&I”) Committee Chairman DeFazio (D-OR), and the Ranking Member Graves (R-MO) offered testimony in the hearing. T&I Chairman DeFazio explained that because of congestion and delays on highways, the U.S. loses roughly \$27 billion a year in economic opportunities. He also mentioned that a Vehicle Miles Traveled (VMT) tax might not be the perfect solution as it could disproportionately affect rural communities. T&I Ranking Member Graves said that raising the gas tax would not be an effective long-term solution for funding the Highway Trust Fund and added that any use of a VMT tax should be calculated differently for rural and urban drivers.

This hearing focused on the need for infrastructure, though the T&I witnesses discussed options to fund any bill. Further hearings in Ways and Means on other aspects of an infrastructure bill are expected.

House Ways and Means Expected to Seek Trump Tax Returns Soon, Senate Finance Committee Will Follow

Key Points:

- *House Ways and Means Democrats are expected to formally request President Trump’s tax returns in coming weeks.*
- *Senate Finance Chairman Grassley (R-IA) says he would request President Trump’s tax return from the IRS should the House Ways and Means Committee obtain them.*
- *House Democrats are anticipating opposition from the Treasury Department that will likely force the issue to be handled by the courts.*

This week, House Ways and Means Committee Member Bill Pascrell (D-NJ) said that Democrats on the committee could request the President’s tax returns within the next two weeks and that the request would likely cover 10 years of returns. However, Democrats are anticipating a number of obstacles before formally receiving the returns. It is likely that the Treasury Department will oppose the request and that the case will ultimately end up in court. The whole process will also likely negatively impact any committee comity going forward.

Senate Finance Committee Chairman Chuck Grassley (R-IA) indicated that should the House Ways and Means Committee obtain President Trump’s tax returns, he too would also request them. Under statute, the House Ways and Means Committee, the Senate Finance Committee, and the Joint Committee on Taxation (comprised of members of both of the above) are the only committees and members authorized in Congress to request and receive tax returns under IRC section 6103.

Foreign-Derived Intangible Income Regulations Proposed

Key Point:

- *Treasury and IRS issued proposed regulations on foreign-derived intangible income this week that offers guidance for determining the various elements that make up FDII calculation.*

The Treasury Department and the Internal Revenue Service (IRS) issued [proposed regulations under section 250](#) of the Internal Revenue Code earlier this week. Section 250 was added by the 2017 Tax Cuts and Jobs Act (TCJA) and offers domestic corporations deductions for foreign-derived intangible income (FDII) and global intangible low-taxed income (GILTI).

The newly proposed regulations provide guidance for determining the various elements that make up the FDII calculation and also offer guidance on how foreign use is determined. In addition, the proposed regulations describe new reporting rules on the required filing of [Form 8993](#). The public comment period for the proposed regulations is now open.

Upcoming Hearings and Events

March 12

Tax Extenders: On March 12, the House Ways and Means Committee's Select Revenue Measures Subcommittee will hold a hearing entitled "Temporary Policy in the Internal Revenue Code." The hearing will take place at 2:00p.m., in room 1100 of the Longworth House Office Building.

March 14

President's Budget: On March 14, Treasury Secretary Steven Mnuchin will testify before

the House Ways and Means Committee to discuss the President's FY 2020 Budget, which typically includes revenue-related proposals. The hearing will take place at 9:00a.m., in room 1100 of the Longworth House Office Building.

President's Budget: On March 14, Secretary Mnuchin will also testify before the Senate Finance Committee to discuss the President's FY 2020 Budget. The hearing will take place at 1:30p.m., in room 214 of the Dirksen Office Building.

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

FINANCIAL SERVICES

FSOC Proposes Amendments to the Non-Bank Financial Company Designation Process

Key Point:

- *The Council proposed amendments which would shift their focus from entity designations to an activities-based approach.*

On March 6, the Financial Stability Oversight Council (FSOC or the Council) held an open meeting and approved two items: (1) proposed amendments to the Council's interpretive guidance on non-bank financial company designations; and (2) a final rule requiring the Council to put any future changes to the interpretive guidance out for public comment.

FSOC Chairman and Treasury Secretary Steven Mnuchin said the proposed amendments would adopt an activities-based approach which relies on the expertise of existing regulators. He said the new interpretive guidance would increase transparency and analytical rigor. He stated that the final rule would commit the Council to seeking public comments before adopting any

additional amendments to the interpretive guidance.

Deputy Assistant Secretary of the Treasury for the Financial Stability Oversight Council Bimal Patel provided a summary of the proposed amendments and the final rule. He said the amendments would replace the existing guidance and the final rule would require any future changes to be issued for public notice and comment. He said the guidance would detail the Council's transition to an activities-based approach. He said the Council would pursue entity-based designations only if an issue could not be addressed through an activities-based approach. He said the activities-based approach is meant to leverage the expertise of prudential regulators. He stated that there would be a two-step approach under the new interpretive guidance: (1) the Council would monitor the market for potential risks; and (2) the Council would then work with the existing regulators to address the risk. Patel said the guidance would also enhance the analytical rigor of the designation process. He stated that it would condense the three step designation process into two steps by eliminating step one. He said the Council would be required to conduct a cost-benefit analysis before moving to an entity designation. He stated that it would also create a pre-designation off-ramp and clarify the post-designation off-ramp.

House Financial Services Committee Holds CFPB Oversight Hearing

Key Points:

- *Democrats criticized the actions taken by the CFPB under the Trump Administration, particularly in regards to payday lending, the Military Lending Act, and student debt.*
- *Republicans commended the work of Director Kraninger, but called for the CFPB to be restructured to enhance its accountability.*

On March 7, the House Financial Services Committee held a [hearing](#) entitled “Putting Consumers First? A Semi-Annual Review of the Consumer Financial Protection Bureau.” The Committee received testimony from Consumer Financial Protection Bureau (CFPB) Director Kathy Kraninger. The Committee discussed the [Consumers First Act \(H.R. 1500\)](#), which was introduced by Chairwoman Maxine Waters (D-CA).

Chairwoman Maxine Waters (D-CA) said the Bureau was the centerpiece of the Dodd-Frank Act (DFA), which was passed after the financial crisis. She stated that under the leadership of former Director Richard Cordray the CFPB was a tremendous success. She said the Bureau took action to address mortgage servicing standards, prepaid card fees, and consumer lending disclosures. She stated that Republicans have done everything they can to stymie the good work of the Bureau, suggesting that the Trump Administration has attempted to tear down the Bureau. She said former Acting Director Mick Mulvaney took many actions which hurt consumers and his appointees are continuing to damage the Bureau. She noted that she has reintroduced the Consumers First Act, which would restore the CFPB's authorities and promote transparency. She stressed the need to ensure the CFPB is fully empowered to protect consumers. She raised concerns with the CFPB's “harmful” proposal to undermine payday lending rules.

Ranking Member Patrick McHenry (R-NC) said he had serious reservations about the establishment of the CFPB, as it is one of the most powerful and unaccountable bureaucracies ever created. He said the CFPB has ignored due process and advanced a political agenda. He suggested that the CFPB has engaged in regulation by enforcement, which he described a dangerous approach to

supervision. McHenry commended Kraninger's work to improve the CFPB's transparency and end regulation by enforcement. He applauded Kraninger's commitment to innovation. He said the CFPB has unilateral authority to do whatever it wants. He said he is concerned with the structure of the CFPB, as there is a single director, its budget is not part of the appropriations process, and there is no dedicated inspector general. He stated that while he has confidence in Kraninger, the Bureau is still in need of reform.

McHenry and Representatives Ann Wagner (R-MO), Bill Huizenga (R-MI), Blaine Luetkemeyer (R-MO), and David Kustoff (R-TN) raised concerns that the CFPB lacks accountability to Congress. They expressed support for a number of reform proposals, including restructuring the Bureau as a five member commission, bringing it into the appropriations process, and creating a dedicated CFPB inspector general. Representative Alexander Mooney (R-WV) called for the Bureau to be abolished.

Representatives Carolyn Maloney (D-NY), Nydia Velazquez (D-NY), Lacy Clay (D-MO), Jennifer Wexton (D-VA), Ben McAdams (D-UT), and Sylvia Garcia (D-TX) spoke in opposition to the CFPB's decision to issue a proposed rule to rescind the underwriting provisions of its regulation on small-dollar, short term loans. Kraninger said the new proposal is based on concerns about the evidence base for the original rule. She said the proposal is still in the comment phase and the Bureau will review all comments and evidence. Representatives Frank Lucas (R-OK), French Hill (R-AR) and David Kustoff (R-TN) urged Kraninger to review the payments provisions of the rule.

Representative Lance Gooden (R-TX) asked if the CFPB has oversight authority over

insurance products. Kraninger said the DFA specifically precluded activity which is state regulated.

SEC Chairman Jay Clayton Speaks on Equity Market Structure

Key Point:

- *Clayton noted that market structure priorities in 2019 include initiatives related to thinly-traded securities, combatting retail fraud, and market data and market access.*

On March 8, Securities and Exchange Commission (SEC) Chairman Jay Clayton and Division of Trading and Markets Director Brett Redfearn gave [remarks](#) at Fordham University about the SEC's equity market structure agenda for 2019.

In regards to thinly-traded securities Clayton stated:

A potential initiative to address illiquidity, which was discussed at length at the Roundtable, is the Department of the Treasury's recommendation in its Capital Markets Report to allow issuers of thinly-traded securities to suspend unlisted trading privileges for non-listing exchanges, while continuing to allow off-exchange trading in these securities as a means to maintain competition among trading venues. To be clear, I recognize the inherent trading volume challenges in thinly-traded securities. The goal, however, is not to significantly increase the volume in these stocks; it is to identify pragmatic steps that could make it easier for buyers and sellers to find each other and consummate trades in this segment of the market. I have asked our Division of Trading and Markets staff to explore this issue,

including considering whether primary listing exchanges should develop pilot programs that would allow us, and market participants, to explore the effects of restricting unlisted trading privileges for certain classes of thinly-traded stocks.

Redfearn added that:

As Chairman Clayton noted, a potential step to address illiquidity would be to evaluate changes to unlisted trading privileges, known as ‘UTP,’ by non-listing exchanges in thinly-traded securities.

In evaluating potential changes to UTP for thinly-traded securities, the goal would not be focused solely towards helping to aggregate liquidity in one location; it would be geared towards enabling innovative market structure solutions for thinly traded names that currently may be thwarted by today’s one-size-fits-all rule set. Alternatives might include periodic auctions, manual market making, or something else. The Division of Trading and Markets staff is exploring whether to recommend that the Commission publish a policy statement discussing these issues. We may consider whether exemptive relief from Regulation NMS is needed to help achieve the goals.

Clayton noted that the SEC is also actively reviewing disclosure rules and registration rules with an eye toward greatly reducing the opportunity for retail fraud. He said he was focused on Rule 15c2-11, which was designed to ensure that broker-dealers have sufficient information to understand and evaluate securities that trade off-exchange prior to publishing a quotation and also be in a position

to provide this information to investors. He said he has asked the Division of Trading and Markets staff to promptly prepare a recommendation to the Commission to update the rule. Brett Redfearn said he anticipates that the Division will present a recommendation to the Commission in the near future.

In regards to market data, Chairman Clayton stated:

We currently have what can be generally described as a two-tiered system of market data and market access in the U.S. equity markets... Many panelists at the Roundtable raised concerns that the consolidated market data distributed through the NMS plans, known as “core data,” may be no longer sufficient for them to trade competitively in today’s markets... Retail brokers also expressed concerns about market data at the Roundtable. They argued that the fee structure for core data, including the definition of a non-professional user, imposes costly administrative burdens on retail customers and their brokers.

I believe that we should explore whether core data needs to be upgraded to better meet the needs of investors and market participants in today’s modern markets, and to ensure that it better facilitates Exchange Act objectives. Accordingly, I have asked staff in our Division of Trading Markets to develop recommendations that would consider the concerns raised about core data and the potentially underlying causes that were highlighted during the Roundtable.

Upcoming Hearings and Events

March 12

Wells Fargo: The House Financial Services Committee will hold a hearing entitled “Holding Megabanks Accountable: An Examination of Wells Fargo’s Pattern of Consumer Abuses.”

Financial Crime: The House Appropriations Committee’s Subcommittee on Financial Services and General Government will hold a hearing entitled “Treasury’s Role in Combating Financial Crimes.”

CFPB Oversight: The Senate Banking Committee will hold a hearing on “The Consumer Financial Protection Bureau’s Semi-Annual Report to Congress.” CFPB Director Kathy Kraninger will testify at the hearing.

Nomination Votes: The Senate Banking Committee will hold an executive session to vote on the following nominations: Mr. Jeffrey Nadaner, to be an Assistant Secretary of Commerce; Ms. Claudia Slacik, to be a Member of the Board of Directors of the Export-Import Bank; and The Honorable Thelma Drake, to be Federal Transit Administrator, Department of Transportation.

March 13

Flood Insurance: The House Financial Services Committee will hold a hearing entitled “Preparing for the Storm: Reauthorization of the National Flood Insurance Program.”

Financial Crime: The House Financial Services Committee’s Subcommittee on National Security, International Development and Monetary Policy will hold a hearing entitled “Promoting Corporate Transparency: Examining Legislative Proposals to Detect and Deter Financial Crime.”

CFTC Chairman Nomination: The Senate Agriculture Committee will hold a hearing to consider the nomination of Heath Tarbert to be Chairman of the Commodity Futures Trading Commission (CFTC).

March 14

Regulation Best Interest: The House Financial Services Committee’s Subcommittee on Investor Protection, Entrepreneurship and Capital Markets will hold a hearing entitled “Putting Investors First? Examining the SEC’s Best Interest Rule.”

CFPB Advisory Committees: The CFPB will hold a meeting of its Consumer Advisory Board, Community Bank Advisory Council, and Credit Union Advisory Council.

Treasury Budget: The Senate Finance Committee will hold a hearing on the President’s Fiscal Year 2020 Budget Request. Treasury Secretary Steven Mnuchin will testify at the hearing.

FSOC Designation Process: The Senate Banking Committee will hold a hearing on “Financial Stability Oversight Council Nonbank Designations.” The witnesses at the hearing will be Douglas Holtz-Eakin, President, American Action Forum; Paul Schott Stevens, President and CEO, Investment Company Institute; and Professor Jeremy C. Kress, Assistant Professor of Business Law, University of Michigan Ross School of Business.

March 26

Disaster Recovery Funds: The House Financial Services Committee’s Subcommittee on Oversight and Investigations will hold a hearing entitled “The Administration of Disaster Recovery Funds in the Wake of Hurricanes Harvey, Irma, and Maria.”

ESG Disclosure: The House Financial Services Committee’s Subcommittee on

Investor Protection, Entrepreneurship and Capital Markets will hold a hearing entitled “Building a Sustainable and Competitive Economy: An Examination of Proposals to Improve Environmental, Social and Governance Disclosures.”

March 27

Technology Advisory Committee: The CFTC will hold a meeting of its Technology Advisory Committee (TAC). The agenda for the meeting includes presentations and actionable recommendations from the TAC subcommittees on Automated and Modern Trading Markets, Distributed Ledger Technology and Market Infrastructure, Virtual Currencies, and Cyber Security, as well as presentations on research findings on automated orders in the futures and options markets from the CFTC’s Division of Market Oversight.

For more information about financial services issues you may [email](#) or call Joel Oswald at 202-659-8201. Alex Barcham contributed to the articles.

ENERGY & ENVIRONMENT

House Energy and Commerce Subcommittee Holds Hearing on Energy Appliance Efficiency Standards

Key Points:

- *On Thursday, the House Energy Subcommittee heard testimony on the Department of Energy’s program for issuing energy efficiency standards for appliances.*
- *Democrats, including Chairman Frank Pallone (D-NJ), were critical of what they characterized as significant delays in issuing new standards.*
- *Assistant Secretary of Energy Daniel Simmons discussed the process for approving new standards in his testimony, and also*

described proposed revisions to the program’s procedural regulations.

On March 7, the House Energy and Commerce Committee’s Energy Subcommittee held a [hearing](#) titled “Wasted Energy: DOE’s Inaction on Efficiency Standards & Its Impact on Consumers and the Climate”. The Committee’s [background memorandum](#) for the hearing notes that Congress established federal “minimum energy conservation standards for appliances and equipment through Title III of the Energy Policy and Conservation Act (EPCA)”.

In his [testimony](#), Assistant Secretary of Energy for Energy Efficiency and Renewable Energy (EERE) Daniel Simmons said that “EERE has 50 active regulations in various stages of development that it plans to take action on in the coming year, the vast majority of which are implementing components of the Appliance Standards Program.” He also told the Subcommittee that the Department’s 1996 “Process Rule” established the procedures “for the consideration of new and amended energy conservation standards...[that] typically take a minimum of three years to complete.” Simmons said that on February 6, 2019, the Department released a [Notice of Proposed Rulemaking](#) (NPRM) to amend the 1996 Process Rule “to streamline and modernize its methods for setting energy efficiency standards and test procedures for residential appliances and commercial equipment”.

In his [opening statement](#), Energy and Commerce Committee Chairman Frank Pallone (D-NJ) sharply criticized the Department and the Trump Administration for delays in issuing new standards, which he argued “came to a grinding halt when President Trump was inaugurated.” Pallone also questioned the Process Rule amendments, asserting that the proposed rule would make “it

harder to update efficiency standards...by cooking the economic analysis for new standards so that costs are taken into greater account while narrowing the scope of benefits that DOE will consider.”

Ranking Member Greg Walden (R-OR), in his [opening statement](#), contended that issues in the underlying statute are the cause of delays in promulgation of efficiency standards. He added that without legislation to reform EPCA, “the regulatory backlog will continue, as it has under multiple Presidential Administrations.

Committee Advances Department of Energy Nominations

Key Point:

- *On March 7, the Senate Energy and Natural Resources Committee favorably reported four Department of Energy nominations that were originally considered during the last Congress.*

On Thursday, the Senate Energy and Natural Resources Committee held a business meeting and voted to favorably report four Department of Energy nominations to the full Senate:

- Dr. Rita Baranwal to be Assistant Secretary for Nuclear Energy;
- William Cooper to be General Counsel;
- Dr. Christopher Fall to be Director of the Office of Science; and
- Lane Genatowski to be Director of the Advanced Research Projects Agency-Energy.

A [press release](#) noted that Thursday’s vote is “the second time the committee has favorably reported these non-controversial nominees.” The Senate did not vote on the nominations before the close of the 115th Congress and President Trump resubmitted them earlier this year.

Upcoming Hearings and Events

March 12

BLM, Forest Service, and Power Marketing Administrations: The House Natural Resources Committee’s Subcommittee on Energy and Mineral Resources will hold a [hearing](#) on “Examining the Policies and Priorities of the Bureau of Land Management, the United States Forest Service, and the Power Marketing Administrations”.

State of Wildlife: The House Natural Resources Committee’s Subcommittee on Water, Oceans, and Wildlife will hold a [hearing](#) on “WOW 101: The State of Wildlife”.

March 13

Diesel Emissions Reduction: The Senate Environment and Public Works Committee will hold a [hearing](#) on the “Diesel Emissions Reduction Act of 2019”.

The Military and Climate Change: The House Armed Services Committee’s Subcommittee on Readiness will hold a [hearing](#) on “Ensuring Resiliency of Military Installations and Operations in Response to Climate Changes”.

Chemical Safety: The House Energy and Commerce Committee’s Environment Subcommittee will hold a [hearing](#) titled “Mismanaging Chemical Risks: EPA’s Failure to Protect Workers”.

March 28

Energy Sector Cybersecurity: The Federal Energy Regulatory Commission (FERC) and the Department of Energy will hold a [technical conference](#) on “Security Investments for Energy Infrastructure”. The conference will “discuss current cyber and physical security practices used to protect energy infrastructure and will explore how federal and state

authorities can provide incentives and cost recovery for security investments in energy infrastructure, particularly the electric and natural gas sectors.”

June 25-26

Natural Gas Pipeline Safety Regulations:

The Pipeline and Hazardous Materials Safety Administration (PHMSA) will convene a meeting of its Gas Pipeline Advisory Committee (GPAC). As detailed in the [meeting notice](#), the “GPAC will be considering the gathering line component of the proposed rule titled ‘Safety of Gas Transmission and Gathering Pipelines,’ which was published in the Federal Register on April 8, 2016, (81 FR 20722) and the associated regulatory analysis.”

June 27

Grid Reliability: The Federal Energy Regulatory Commission (FERC) will hold a [technical conference](#) to “to discuss policy issues related to the reliability of the Bulk-Power System.”

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

HEALTH

Gottlieb Announces Resignation

Key Point:

- *Food and Drug Administration Commissioner Scott Gottlieb announced he will be leaving his position at the end of March.*

On March 5, it was announced Food and Drug Administration Commissioner Scott Gottlieb would be leaving his post at the end of March.

Gottlieb cited a desire to spend more time with family as the reason for his departure.

According to reports, his resignation was not sought by the White House. Acting Chief of Staff Mick Mulvaney said he was “not aware of any policy dispute in the administration regarding Dr. Gottlieb.” In a tweet, President Trump highlighted Gottlieb’s work, emphasizing he “helped us lower drug prices, get a record number of generic drugs approved and onto the market, and so many other things.”

There is no information available on who may assume his responsibilities on an acting or permanent basis according to a Department of Health and Human Services spokeswoman.

Congress Continues Examination of Prescription Drug Pricing

Key Points:

- *The Senate Special Committee on Aging held the first two parts of its three-part series examining prescription drug prices.*
- *The House Ways and Means Committee’s Health Subcommittee held a hearing focused on prescription drug pricing in the Medicare program.*

On March 6 and 7, the Senate Special Committee on Aging held its first two hearing this Congress on prescription drug pricing. The first hearing focused on the patient perspective; the second on policy experts; and the third, to be scheduled later in March, with the Administration.

Topics discussed at the March 6 hearing included: (1) Insulin; (2) Insurance; (3) Out-of-Pocket Cap; (4) Price Transparency; (5) Medicare Negotiations; (6) Drug Importation; (7) Legislation; (8) Generics/ Patent System; (9) Marketing; and (10) Access to Medication.

Chairman Susan Collins (R-ME) called for more transparency into the relationship between research costs and prices. She expressed concern Americans are cashing in retirement accounts, working multiple jobs at retirement age, or choosing to pay for drugs over other basic needs. Ranking Member Bob Casey (D-PA) said his constituents ask him “how to meet ends meet” in the face of low wage and a rising cost of living that includes prescription drug costs.

Topics discussed at the March 7 hearing included: (1) Transparency; (2) Price Increases; (3) Out-of-Pocket Costs; (4) PBMs; and (5) Value-Based Pricing. Collins noted she introduced the “Biologic Patent Transparency Act” ([S. 659](#)) in an effort to encourage competition in the prescription drug marketplace and put an end to the harmful patent strategies that block new drugs from coming to market. Casey indicated he will be introducing two bills to address the cost of prescription drugs.

On March 7, the House Ways and Means Committee’s Health Subcommittee held a hearing entitled “Promoting Competition to Lower Medicare Drug Prices.” Topics discussed in the hearing included: (1) Insulin; (2) Pharmacy Benefit Managers; (3) Patent System; (4) Compulsory Licensing; (5) Research and Development; (6) Advertising/ Marketing; (7) Government Negotiation/ Monopoly Pricing; (8) Out-of-Pocket Costs; (9) Medicare Part D; (10) Trade; and (11) Tax Incentives.

Chairman Lloyd Doggett (D-TX) stated Congress should be engaged on a number of actions to reduce drug prices and advocated for his recently introduced “Competitive DRUGS Act” ([H.R. 1344](#)) which would prohibit pay-for-delay settlements between brand-name and generic manufacturers. Ranking Member Devin Nunes (R-CA) presented three concerns he

wished to see addressed in the hearing: (1) rewarding manufacturers with the highest price in a drug class; (2) putting taxpayers on the hook for bailing out insurance plans; and (3) forcing cancer patients to pay twice as much for chemotherapy based on where they receive treatment.

Upcoming Hearings and Events

March 12

HHS Budget: The House Energy and Commerce Committee will hold a hearing on the president's FY2020 budget request for the Department of Health and Human Services (HHS).

March 13

Drug Pricing: The House Energy and Commerce Committee will hold a hearing on “Lowering the Cost of Prescription Drugs: Reducing Barriers to Market Competition.”

HHS Budget: The House Appropriations Committee will a hearing on “Department of Health and Human Services Budget Request for FY2020.”

March 14

Ebola: The Senate Appropriations Committee will hold a hearing on the Ebola outbreak in the Democratic Republic of the Congo and other emerging health threats.

HHS Budget: The Senate Finance Committee will hold a hearing on the President’s FY 2020 budget for HHS.

Opioids: The Centers for Disease Control and Prevention will hold a webinar to update the public on the Opioid Prescribing Estimate project.

For more information about healthcare issues you may [email](#) or call Nicole Ruzinski Bertsch or George Olsen at 202-659-8201. Thomas McGrath contributed to this section.

TRADE

Trump Administration Ends Trade Preference for India, Turkey

Key Points:

- USTR announced India cannot provide sufficient assurances that that it will give equitable and reasonable access to its markets in numerous sectors.
- Duties on U.S. imports from India will rise on about \$5 billion to \$6 billion worth of goods, and could provoke New Delhi to retaliate.
- Turkey was recognized as being sufficiently economically developed and no longer needed preferential treatment.

On Monday, President Trump directed U.S. Trade Representative (USTR) Robert Lighthizer to terminate the Generalized System of Preferences (GSP) program for Turkey and India. USTR Lighthizer declared, “India has implemented a wide array of trade barriers that create serious negative effects on U.S. commerce. Despite intensive engagement, India has failed to take the necessary steps to meet the GSP criterion.” Senate Finance Chairman Chuck Grassley (R-IA) stated on Tuesday that “the Indian government hasn’t engaged enough to address market access issues.” U.S. law requires the President to wait 60 days after he notifies Congress and the governments of the two countries before he formally terminates their participation by issuing a presidential proclamation (President Trump notified Congress on March 4, 2019).

The move to end the GSP for India will raise duties on about \$5 billion to \$6 billion worth of goods the U.S. imports from India, which is slightly more than 10 percent of India’s total exports to the U.S. Experts warn that the move could potentially provoke India to retaliate against President Trump’s steel and aluminum tariffs imposed last year. The Indian Government released a statement on Tuesday that argued “[i]n a few instances, specific U.S. requests were not found reasonable and doable at this time by the departments concerned, in light of public welfare concerns reflective of India’s developing country status and its national interest.”

The U.S. began reviewing Turkey’s GSP eligibility in 2018 after Turkey imposed tariffs in retaliation for U.S. Section 232 duties on steel and aluminum. Around that same time President Trump doubled the national security tariffs on steel and aluminum from Turkey to 50 percent and 20 percent, respectively. Trump explained that the decision was in response to the plummeting value of the Turkish Lira. Turkey responded to the United States’ tariff escalation by raising tariffs on U.S. cars, alcohol, and tobacco. Nonetheless, this week’s decision was framed in terms of Turkey ‘outgrowing’ the less developed status that GSP is designed to target as a form of economic assistance.

Senate Finance Committee Working on Section 232 Reforms

Key Points:

- Senate Finance Chairman Grassley is seeking to pass Section 232 reforms with enough support to override a presidential veto.

Senate Finance Committee Chairman Grassley (R-IA) has instructed his staff to work with Senators Toomey (R-PA), Portman (R-OH)

and Democrats to craft a consensus bill applying additional limits on the presidential national-security tariff powers. Chairman Grassley is seeking broad bipartisan support because any bill will need to override a presidential veto. Senator Portman has introduced the Trade Security Act ([S. 3329](#)), which would allow Congress to negate trade restrictions imposed by the president under Section 232 (of the Trade Expansion Act of 1962) if it passes a joint resolution of disapproval. Senator Toomey's bill, the Bicameral Congressional Trade Authority Act ([S.287](#)), would require that Congress approve any Section 232 restrictions within 60 days via resolution. Without congressional approval, the restrictions would not enter into force. The Bicameral Congressional Trade Authority Act would also allow Congress to retroactively Section 232 tariffs levied within the last four years, which would give Congress authority to act on the steel and aluminum tariffs imposed by the Trump Administration last year.

It is not clear what position the House Democrats would take on the issue, however.

Possible WTO Reforms to be Discussed, USTR Lighthizer Will Testify

Key Points:

- Chairman Grassley wants to ensure that the U.S. receives the full and intended benefits of WTO membership.
- The U.S. has been blocking nominations to the WTO Appellate Body panel since mid-2017 and there will not be enough panelists to function in December.
- U.S. working with the EU and Japan to develop proposals for new WTO rules on industrial subsidies and state-owned enterprises.
- USTR Lighthizer is also likely to get questions on other trade matters.

The Senate Finance Committee will hold a hearing next week (March 12, 10:15 AM EST) to discuss possible reforms to the World Trade Organization (WTO). USTR Lighthizer will be the sole witness and Chairman Grassley (R-IA) has indicated that he is interested in “[ensuring] that the United States receives the full and intended benefits of WTO membership and that all members play by the rules.” WTO reforms have also been a focus in Geneva where the U.S. has been submitting several papers outlining its criticisms of the Appellate Body as well as proposals to update the WTO's notification rules and self-designating methodology. Because of these systemic concerns with the Appellate Body, the U.S. has been blocking nominations to the panel since mid-2017. The Appellate Body is a seven member panel that currently only has three seats occupied, which is the minimum number required for the panel to perform its functions. Two of the current three panelists' terms are expiring in December, which would disable the panel if no members are added.

In other areas of WTO policy, the U.S. has been working with the EU and Japan to develop proposals for new WTO rules on industrial subsidies and state-owned enterprises. The EU and Japan also co-sponsored a U.S. proposal on transparency that would strip non-compliant members of their rights at the WTO.

Agriculture Causes Tension for US-EU Trade Talks

Key Points:

- EU and U.S. continue to disagree over the inclusion of agriculture in a new trade deal.
- Trade representatives from both the U.S. and EU will continue to meet in an attempt to resolve the issue.

The secretary-general of the European Commission Selmayr announced recently that the inclusion of agriculture in trade talks with the U.S. is not up for discussion. He argued that in discussions between European Commission President Jean-Claude Juncker and President Trump in July regarding a new trade deal, the inclusion of agriculture was never discussed. The U.S. has been pushing back against that assertion and USTR Lighthizer has made clear to Congress that the U.S. will not negotiate a deal without agriculture. EU member nations have still not finalized a document outlining their objectives for a U.S. trade deal. Secretary-general Selmayr has stated he is “very confident” that process would be concluded soon. The issue will likely remain a very sensitive issue on both sides, and could provoke an escalation in trade tensions between the two trading partners.

Upcoming Hearings and Events

March 13

China Competition: On March 13, the Senate Foreign Relations Committee will hold a hearing entitled “U.S.-China Competition.” The hearing will take place at 10:15 a.m. in room 419 of the Dirksen Senate Office Building. Witnesses include James M. Talent, commissioner of the U.S.-China Economic and Security Review Commission; and Oriana Mastro, assistant professor of security studies in Georgetown University's Edmund A. Walsh School of Foreign Service.

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

This Week in Congress was written by Alex Barcham.