

March 22, 2019

Washington Update

This Week In Congress

House – The House was in recess.

Senate – The Senate was in recess.

Next Week In Congress

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

Senate – The Senate will consider the nomination of Bridget S. Bade, to be United States Circuit Judge for the Ninth Circuit. The Senate is also expected to consider [S.J.Res.8](#), a joint resolution recognizing the duty of the Federal Government to create a Green New Deal, as well as [H.R. 268](#), which would make supplemental appropriations for the fiscal year ending September 30, 2019.

TAX

House Ways and Means Committee Schedules First Hearing on TCJA; Committee Also Planning Legislation on Tax Extenders

Key Points:

- *The House Ways and Means Committee will host a hearing on the Tax Cuts and Jobs Act on March 27.*
- *The House Ways and Means Committee is also planning to consider a bill in April that will likely include tax extenders. The bill could also address retirement savings and IRS reforms.*

House Ways and Means Democrats have scheduled a hearing on March 27 that will focus on the Tax Cuts and Jobs Act (TCJA) and how the law has failed to benefit taxpayers. This will be the Committee's first hearing that addresses the 2017 law and while no other

hearings have been planned, Chairman Neal (D-MA) has stated that the tax panel will hold hearings on technical corrections to the TCJA in the near future.

This week, a House Democratic aide for the Ways and Means Committee indicated that the Committee is planning to consider a bill in April that will likely include tax extenders. Committee Chairman Neal (D-MA) has indicated added that the package could also address retirement savings and Internal Revenue Service (IRS) reforms. However, the process could become complicated as Democrats figure out ways to offset the cost of the bill, a requirement under the reinstated

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“Pay-Go” rules in the House. The Senate has made it clear they do not want to offset the costs of temporary tax measures.

Joint Committee on Taxation Releases Summary of the Present-Law Federal Tax System

On March 20, the Joint Committee on Taxation (JCT) released its “summary of the present-law Federal tax system as in effect for 2019.” According to the report, a number of aspects in the Internal Revenue Code of 1986 are subject to changes. The report provides a broad overview of the Federal tax system’s four main elements: “(1) an income tax on individuals and corporations...; (2) payroll taxes on wages to...finance certain social insurance programs; (3) estate, gift, and generation -skipping transfer taxes; and (4) excise taxes on selected goods and services.”

The full report can be found [here](#).

Upcoming Hearings and Meetings

March 27

TCJA: On March 27, the House Ways and Means Committee will host a hearing entitled “The 2017 Tax Law and Who It Left Behind.” The hearing will take place in 1100 Longworth House Office Building at 10:00 A.M. Witnesses have not been released.

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

SEC Division of Investment Management Director Discusses 2019 Agenda

Key Points:

- *Division of Investment Management Director Dalia Blass discussed the Division’s 2019 agenda, which includes rulemakings on annuities, ETFs, and funds of funds. She noted that they will also be considering guidance related to proxy advice.*
- *Blass also spoke about the long-term trends in asset management, expressing concerns related to consolidation.*

On March 18, Securities and Exchange Commission (SEC) Division of Investment Management Director Dalia Blass gave a [speech](#) at the Investment Company Institute (ICI) Mutual Funds and Investment Management Conference. Blass discussed the Division’s accomplishments in 2018 including: (1) requesting comments on how to improve investment company disclosures to the benefit of Main Street investors; (2) proposing a package of reforms to improve variable annuity disclosure; (3) adopting a notice and access approach to the delivery of shareholder reports; (4) proposing for comment a package of rulemakings designed to bring the legal requirements and mandated disclosures of financial professionals in line with investor expectations; and (5) making recommendations to the Commission on modernizing a number of rules, including exchange-traded funds (ETFs), fund of funds, fund liquidity reporting and fund research reports.

Blass also described the Division’s agenda for 2019, which includes: (1) working with the Division of Trading and Markets on Regulation Best interest; (2) moving forward on the variable annuity disclosure, ETF, and fund of funds rules; (3) proposing regulations on

modernizing the advertising and solicitation rules for investment advisers; (4) proposing regulations for use of derivatives by investment companies. In regards to proxy advisors, she noted that the Division will be “exploring ways to update current guidance to clarify how investment advisers should fulfill their fiduciary duties in this area.”

Additionally, Blass discussed the Division’s role in international bodies such as the International Organization of Securities Commissions (IOSCO) and the Financial Stability Board (FSB). She stated that these bodies have shown an interest in the asset management industry, explaining:

While asset management has long been part of the agenda for these organizations, the growth in asset management, coupled with broader trends, seems to have resulted in greater focus on non-bank finance. Last year, for example, the Governor of the Bank of England and, at the time, Chair of the FSB, described asset management as “a potentially major new vulnerability.” In response to this interest, the Division has made this work a priority and sought to contribute to the conversation insight from our experience with the U.S. asset management markets.

Also of note, Blass discussed trends in asset management, devoting attention to the challenges of small and mid-sized advisers. She expressed concern about what some trends mean for investors “if the variety and choice offered by small and mid-sized asset managers becomes lost in a wave of consolidation and fee compression”, questioning whether there are barriers that make it “harder for small and mid-sized fund sponsors to compete”. Blass announced a new initiative targeted at small and mid-sized fund sponsors to learn about regulatory barriers they may face.

SEC Commissioner Elad Roisman Speaks on the Proxy Process

Key Points:

- *Commissioner Roisman commended the decision to withdraw the no-action letters for ISS and Glass-Lewis.*
- *He said the Commission should consider whether guidance would be helpful to asset managers as they consider how to utilize the services of proxy advisory firms.*

On March 18, Securities and Exchange Commission (SEC) Commissioner Elad Roisman gave a [speech](#) at the Investment Company Institute (ICI) Mutual Funds and Investment Management Conference regarding the proxy process. He noted that SEC Chairman Jay Clayton has asked him to take the lead on the Commission’s efforts to consider improvements to the proxy process.

Roisman noted that there are questions around certain asset management practices with respect to proxy voting:

In particular, why some advisers 1) aim to vote every proxy for every company in every fund’s portfolio; 2) centralize proxy voting functions within a complex and vote uniformly across funds in the complex; and 3) rely on third-party proxy advisory firms to assist with devising and implementing voting policies. These are not necessarily inherently problematic practices, but without further insight into the thinking behind them, I can see ways in which they might not align with the best interests of individual funds.

Roisman commended Division of Investment Management Director Dalia Blass for withdrawing the staff no-action letters for ISS and Glass-Lewis, stating that he did not believe “that the SEC staff should unilaterally alter the intent of Commission rules by

approving, across-the-board, practices that could be construed as outsourcing fiduciary duty or ignoring major conflicts of interest.”

Roisman added that:

I believe it is a good time for the Commission to consider whether guidance would be helpful to asset managers as they consider how to utilize the services of proxy advisory firms. Relatedly, since proxy advisory firms rely on the proxy solicitation exemptions available under certain Exchange Act rules, it may be appropriate for the Commission to reassess whether their current practices fit within the intended scope and purpose of these exemptions.

Upcoming Hearings and Meetings

March 25

CFTC Open Meeting: The Commodity Futures Trading Commission (CFTC) will hold an open meeting to consider seven items: (1) Amendment to the Comparability Determination for Japan: Margin Requirements for Uncleared Swaps for Swap Dealers and Major Swap Participants; (2) Comparability Determination for Australia: Margin Requirements for Uncleared Swaps for Swap Dealers and Major Swap Participants; (3) Final Rule Amending Regulations on Segregation of Assets Held as Collateral in Uncleared Swap Transactions; (4) Final Rule Regarding the De Minimis Exception to the Swap Dealer Definition – Swaps Entered into by Insured Depository Institutions in Connection with Loans to Customers; (5) Final Rule Regarding Financial Surveillance Examination Program Requirements for Self-Regulatory Organizations; (6) Brexit-Related Updates to Memoranda of Understanding and Related Side Letters with the United Kingdom Financial Conduct Authority; and (7) Interim Final Rule Regarding Margin Requirements for

Uncleared Swaps for Swap Dealers and Major Swap Participants in Light of Brexit.

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.”

Financial Services Bills: The House Financial Services Committee will hold a markup of five bills: (1) draft legislation, the Ending Homelessness Act; (2) The Kleptocracy Asset Recovery Rewards Act ([H.R. 389](#)); (3) the Consumers First Act ([H.R. 1500](#)); (4) the SAFE Banking Act ([H.R. 1595](#)); and (5) the SEC Disclosure Effectiveness Testing Act ([H.R. 1815](#)).

Housing Finance Reform: The Senate Banking Committee will hold a hearing on the [housing finance reform outline](#) released by Chairman Mike Crapo (R-ID). The witnesses at the hearing will be: Ms. Sue Ansel, President and CEO, Gables Residential, on behalf of The National Multifamily Housing Council; Mr. Edward DeMarco, President, Housing Policy Council; Mr. Greg Ugalde, Chairman of the Board, National Association of Home Builders; Mr. Mark Zandi, Chief Economist, Moody’s Analytics; Mr. Hilary Shelton, Washington Bureau Director and Senior Vice President for Advocacy and Policy, NAACP; and Mr. Adam Levitin, Professor of Law, Georgetown University Law Center.

Consumer Reporting Agencies: The House Oversight and Reform Committee’s Subcommittee on Economic and Consumer Policy will hold a hearing on improving data security at consumer reporting agencies.

March 27***CFTC 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.

Housing Finance Reform:

The Senate Banking Committee will hold a hearing on the [housing finance reform outline](#) released by Chairman Mike Crapo (R-ID). The witnesses at the hearing will be: Mr. Michael Bright, President and CEO, The Structured Finance Industry Group; Mr. Robert Broeksmit, President and CEO, Mortgage Bankers Association; Ms. Lindsey Johnson, President, U.S. Mortgage Insurers; Mr. Vince Malta, President Elect, National Association of Realtors; Ms. Carrie Hunt, Executive Vice President of Government Affairs and General Counsel, National Association of Federally-Insured Credit Unions; and Mr. Michael Calhoun, President, Center for Responsible Lending.

Financial Services: The House Appropriations Committee's Subcommittee on Financial Services and General Government will hold a "Public Witness Hearing."

SEC/CFTC Budgets: The Senate Appropriations Committee's Subcommittee on Financial Services and General Government will hold a hearing on the Fiscal Year 2020 budget requests for the SEC and the CFTC. SEC Chairman Jay Clayton and CFTC Chairman J. Christopher Giancarlo will testify.

March 28

Investor Advisory Committee: The SEC will hold a meeting of its Investor Advisory Committee (IAC). The agenda for the meeting includes three panels: (1) Discussion Regarding Stock Exchanges: Investor Protection Under the Modern Exchange Regulatory Structure; (2) Discussion Regarding Disclosures on Human Capital (which may include a recommendation from the Investor as Owner subcommittee); and (3) Discussion Regarding Trends in Investment Research and Potential Regulatory Implications.

March 29

FDIC Open Meeting: The Federal Deposit Insurance Corporation (FDIC) will hold an open meeting to consider three items: (1) Regulatory Capital Rule: Revisions to the Supplementary Leverage Ratio to Exclude Certain Central Bank Deposits of Banking Organizations Predominantly Engaged in Custody, Safekeeping and Asset Servicing Activities; (2) Notice of Proposed Rulemaking: Amendments to 12 C.F.R. part 370, Recordkeeping for Timely Deposit Insurance Determination; and (3) Notice of Proposed Rulemaking on Joint Deposit Accounts (Part 330).

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

HEALTH

HHS Releases Additional Funding to States for Opioid Response

Key Point:

- *The Department of Health and Human Services announced the latest release of \$487 million to states for their State Opioid Response grants for 2019.*

On March 20, the Department of Health and Human Services (HHS) announced the release of \$487 million to supplement the first-year funding for the State Opioid Response (SOR) grant program. Along with the continuation awards to be provided later this year, the states and territories will receive over \$1.4 billion in SOR grants for 2019. The Substance Abuse and Mental Health Services Administration (SAMHSA) administers the grants.

HHS Secretary Alex Azar stressed the “strategy is beginning to produce results, thanks to so many Americans working on the ground, in their own communities, to turn the tide on this crisis.” Assistant Secretary for Mental Health and Substance Use Elinore McCance-Katz stressed “the gold standard of treatment for opioid use disorders” includes psychosocial supports, community recovery services, and medication-assisted treatment (MAT).

The SOR grants are used to help expand access to MAT using the three FDA-approved medications, reducing unmet treatment needs, and reducing opioid overdose-related deaths through prevention, treatment, and recovery activities. Last summer, SAMHSA announced the first year of SOR funding. Allocations were based on a formula with a 15 percent set-aside for the 10 states with the highest mortality rates related to overdose deaths. The SOR programs build off the \$1 billion first provided to states

and territories through the Opioid State Targeted Response (STR) program.

View a list of individual grantee awards [here](#).

Upcoming Hearings and Meetings

March 26

Cures: The Senate Health, Education, Labor and Pensions Committee will hold a hearing on “Implementing the 21st Century Cures Act: Making Electronic Health Information Available to Patients and Providers.”

HHS Budget: The House Budget Committee will hold a hearing on the Department of Health and Human Services FY 2020 budget.

Opioids: The Bipartisan Policy Center will host an event on “Tracking Federal Funding to Combat the Opioid Crisis.”

Policy: CQ Roll Call will hold a “Health Care Decoded” discussion on pressing health care issues Congress will face this year.

March 27

Budget: The House Appropriations Committee’s Labor, Health and Human Services, Education and Related Agencies Subcommittee will hold a “Member Day Hearing.”

March 28

Opioids: Politico will hold a discussion on “Opioid Misuse, Hepatitis C and HIV: An Emerging Crisis.”

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**China Trade Deal Developments This Week***Key Points:*

- *President Trump stated early in the week he is in no rush to lift tariffs, then later in week emphasized the tariffs on \$50B of goods (Lists 1 & 2) as needing to stay.*
- *A China deal remains close, though some momentum appeared to fade this week.*
- *USTR Lighthizer and Treasury Secretary Mnuchin will continue talks in China next week.*

President Trump commented this week that he would keep tariffs in place on China to ensure that the Chinese government is complying with any deal reached. Later in the week, the President suggested the List 1 and 2 of Section 301 tariffs, totaling \$50 billion of goods, were the most important to maintain. Meanwhile, it appears U.S. Trade Representative (USTR) Lighthizer is advising against removing the ten percent tariff on \$200 billion in Chinese goods (List 3). Derek Scissors, a resident scholar and China expert at the American Enterprise Institute, believes “[t]he President’s comments were a result of the pushback against lifting tariffs when you don’t have a proper enforcement mechanism.”

USTR Lighthizer and Treasury Secretary Mnuchin continue to assert that a trade deal with China is very close. USTR Lighthizer and Secretary Mnuchin will travel to Beijing next week to discuss the trade issues; and a visit by the Chinese Vice Premier is expected the following week. The timing of a meeting between Presidents Trump and Xi to finalize any potential agreement could be the end of April or could slip to May, and might entail a state visit to DC or could occur in Florida.

The Office of the USTR this week released a [list](#) of additional products excluded from a first wave of Section 301 tariffs on \$34 billion worth of Chinese goods. Products exempted include salad spinners, hand-held water purifiers and tuners for musical instruments. USTR has not announced any exemptions from the second tranche of tariffs on \$16 billion worth of goods, though an exclusions process is in place.

USMCA Pushes Forward*Key Points:*

- *President Trump schedules meeting next week with House Republicans to whip up support for USMCA.*
- *House Democrats likely to continue opposing USMCA due to labor concerns.*
- *BRT and Agriculture leaders urge lawmakers to pass the USMCA.*

Many House Republicans have been invited to the White House next week on Tuesday in an effort by President Trump to whip support for the U.S.-Mexico-Canada Agreement (USMCA). Ratification of the deal is expected to be a big priority for the President and an achievement he wants to tout on the 2020 campaign trail. However, House Democrats continue to voice concerns over enforcing certain labor and environmental standards. Mexico’s chief negotiator for the USMCA predicted this week that congressional Democrats will take issue with nine or ten of the deal’s provisions, delaying a vote on the agreement and pressuring the Trump administration to compromise. Kenneth Smith Ramos, who as director of the trade at the Mexican Economy Ministry led Mexico in North American Free Trade Agreement (NAFTA) renegotiation talks with the U.S. and Canada, said he expects Democrats will delay a vote on USMCA until after Congress’ August recess, making it “very difficult” for lawmakers to resume the

ratification process and vote on the deal before the end of the year.

President Trump met Thursday with top business executives at the quarterly meeting of the Business Roundtable (BRT). After their meeting, the BRT put out a statement calling on Congress to pass the agreement this year. Also, Texas Agriculture Commissioner Sid Miller, who heads the Southern U.S. Trade Association, is leading the effort to press lawmakers from both parties to pass the USMCA, in part because of the benefits for the agricultural sector.

The next official deadline is April 17 for the ITC report. After that, there is no firm deadline under the TPA process until the White House sends the draft language to the Congress to start a 90 day clock for consideration.

EU Auto Tariffs and Brexit Deal

Key Points:

- *EU offers Brexit delay to late May.*
- *President Trump undecided on auto tariffs.*
- *EU likely to retaliate against Auto tariffs with counter tariffs.*

European Council President Donald Tusk proposed May 22 as the new Brexit date, with no further delay possible if Britain does not take part in the European Parliament election. The draft conclusions state, “Given that the United Kingdom does not intend to hold elections to the European Parliament, no extension is possible beyond that date.”

On Wednesday President Trump indicated that the U.S. needs to get tough on the European Union (EU). He would not comment directly on whether or not the U.S. would impose tariffs on imported cars from the EU, but he did say that the issue was “up for review.” The President has repeatedly said the EU has

treated the U.S. unfairly on trade, and has told reporters that he wants to find a way to combat it. If the tariffs are implemented, the European Commission is likely to retaliate with tariffs on a number of products that would hit Americans in swing states like Florida or Wisconsin.

In an interview that aired today, President Trump also indicated that the auto sector was not in need of national security protection, alluding to the Section 232 study of that issue that is at the White House for review and possible action. Instead the President looked to the trade deficit as being the most important issue for national security. He suggested that EU car companies should build more cars in the U.S. Meanwhile all reports indicate the US-EU trade talks are completely stalled.

Upcoming Hearings and Meetings

March 26

Trade and Labor: On March 26, the House Ways and Means Committee will hold a hearing entitled “Trade and Labor: Creating and Enforcing Rules to Benefit American Workers.” The hearing will take place at 10:00 a.m. in room 1100 of the Longworth House Office Building.

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.