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May 4, 2018

Washington Update

This Week in Congress

House – The House is in recess until Monday, May 7th.

Senate – The Senate is in recess until Monday, May 7th.

Next Week in Congress

House – The House may consider H.R. 2152, the **Citizens' Right to Know Act of 2017**; H.R. 5645, the **Standard Merger and Acquisition Reviews Through Equal Rules Act of 2018**; S.J.Res. 57, the **Congressional Review Act disapproval of the CFPB rule "Indirect Auto Lending and Compliance with the Equal Credit Opportunity Act"** and H.R. 3053, the **Nuclear Waste Policy Amendments Act of 2018**.

Senate – The Senate may consider the nominations of **Kurt D. Engelhardt**, to be United States Circuit Judge for the Fifth Circuit; **Michael B. Brennan** to be United States Circuit Judge for the Seventh Circuit; **Joel M. Carson III** to be United States Circuit Judge for the Tenth Circuit; **John B. Nalbandian** to be United States Circuit Judge for the Sixth Circuit; **Michael Y. Scudder** to be United States Circuit Judge for the Seventh Circuit and **Amy J. St. Eve** to be United States Circuit Judge for the Seventh Circuit.

FINANCIAL SERVICES

SEC Chairman and Division Director Discuss Fiduciary Duty

Key Points:

- *SEC Chairman Clayton and Division of Investment Management Director Blass discussed the recently proposed Regulation Best Interest which creates a duty of care for broker-dealers and intends to clarify the duty of care for investment advisers.*
- *Director Dalia Blass also discussed liquidity risk management developments.*

On May 2, SEC Chairman Jay Clayton gave a speech on the Commission's rulemaking efforts intended to provide clarity and protection for retail investors receiving advice. Chairman Clayton discussed the recently proposed Regulation Best Interest (Regulation BI) which

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701 8th Street, N.W. Suite 500 Washington, D.C. 20001

Telephone: (202) 659-8201 Fax: (202) 659-5249
www.williamsandjensen.com

creates a duty of care for broker-dealers and intends to clarify the duty of care for investment advisers. Clayton discussed the increase in participation of retail investors in the markets, and he noted that most investors do not know whether they are dealing with a broker-dealer or an investment adviser. He suggested that: retail investors should be able to get "clear, plain language" advice from both broker-dealers and investment advisers; investment professionals should follow standards of conduct that embody key fiduciary principles tailored to the client relationship; and enforcement tools should be available to ensure those standards are met. Clayton explained under current law relationships with investment advisers are governed by a fiduciary duty while broker-dealers are only required to make recommendations of securities that are "suitable," and neither is required to provide conflict-free advice. He explained under the proposed rule, broker-dealers and investment advisers must disclose key aspects of their relationship in a clear and concise form, and the broker-dealer standards of conduct are heightened to require that recommendations to retail investors be in the best interest of those retail investors without putting the financial interest of the broker-dealer ahead of the retail customer. Clayton explained this duty could be met by: (1) "disclosing material facts about the relationship, including conflicts, services provided, and fees"; (2) "exercising reasonable diligence, care, skill, and prudence to make recommendations that are in the best interest of the retail customer"; and (3) "eliminating, or disclosing and mitigating, conflicts of interests related to financial incentives."

On April 30, Dalia Blass, the Director of the Division of Investment Management, gave remarks in which she focused her discussion on the recently proposed Regulation BI and liquidity risk management. She noted that the proposed Regulation BI requires firms to be "direct and clear" about whether it is a broker-dealer or an investment adviser. She explained that firms will be required to provide investors with a new, succinct disclosure called a "Relationship Summary that will highlight: (1) the principal types of services offered; (2) the legal standards of conduct that apply to each; (3) the fees the customer would pay; and (4) certain conflicts of interest that may exist. She noted Regulation BI seeks to create a fiduciary duty for broker-dealers without eliminating the "pay-as-you-go" broker-dealer model. She noted that the proposed rule goes beyond suitability in that is covers disclosure, care, and conflict obligations.

Blass noted another area, liquidity risk management, which the SEC continues to work on since the 2016 adoption of the rule designed to promote effective liquidity risk management practices among open-end funds. She explained that in response to feedback on the rule, the Division responded to "a significant number of frequently asked questions", the Commission extended the compliance date for classification requirements; and the Commission proposed "targeted changes to the rule's related public reporting requirement." She noted that the liquidity classification process "will rely on a wide variety of data, assumptions, algorithms and methodologies" and therefore when aggregated "may not be what it appears, particularly when placed alongside the information from another fund." Blass explained that in responding to these challenges, the Commission issued a proposal in March to modify the public reporting and the Commission staff also plans "to publish anonymized aggregated data in a report similar to the staff's reports on Form PF.

Upcoming Hearings and Events

May 7

Indirect Auto Lending: The House Rules Committee will hold a meeting to consider S.J. Res. 57, a resolution to disapprove of and repeal the Consumer Financial Protection Bureau's rule on "Indirect Auto Lending and Compliance with the Equal Credit Opportunity Act. The Senate passed the resolution on April 18 by a vote of 51-47.

May 10

Federal Advisory Committee on Insurance: The Treasury Department's Federal Insurance Office (FIO) will hold a meeting of its Federal Advisory Committee on Insurance (FACI). The agenda for the meeting includes discussions of blockchain initiatives, "insurtech" and economic development, and auto insurance in an age of autonomous vehicles.

May 10-11

Financial Market Regulation: The Securities and Exchange Commission (SEC) will hold a joint conference with Lehigh University, the University of Maryland, and the CFA Institute, on regulation of the financial markets. The agenda for the event includes a panel on research conducted by the SEC, as well as panels on academic research regarding: (1) market microstructure; (2) corporate finance; (3) financial intermediaries; and (4) asset management.

For more information about financial services issues you may email or call Joel Oswald at 202-659-8201. Alex Barcham and Rebecca Konst contributed to the articles.

ENERGY & ENVIRONMENT

White House Meeting Scheduled as Ethanol Policy Debate Continues

Key Points:

- *The White House is convening a meeting next week that is expected to include Senate proponents and opponents of expanding the amount of renewable fuels blended into gasoline and other transportation fuels.*
- *The meeting will be held against a backdrop of disputes over issues that include whether to grant some refineries relief from biofuel requirements and whether to allow a higher level blend of renewable fuel to be sold year-round.*

The Trump Administration is reportedly convening another meeting to discuss the Renewable Fuel Standard (RFS) next week. This latest meeting occurs as policymakers wrangle over statutory requirements for blending ethanol and other biofuels into the U.S. transportation fuel supply. Specific issues of contention include the EPA's granting of waivers to some refineries from the obligation to acquire Renewable Identification Numbers (RINs) to demonstrate compliance with the RFS. There is also a push by renewable fuel advocates to allow year-round sales of gasoline blended with 15 percent ethanol (E-15). The RFS establishes the requirements for blending ethanol and other biofuels into the transportation fuel supply. Congress established the RFS in the "Energy Policy Act of 2005" (P.L. 109-58) and expanded the requirements in the "Energy Independence and Security Act of 2007" (P.L. 110-140). The RFS, which is administered by the Environmental Protection Agency (EPA), sets annual targets for renewable fuels, including ethanol, advanced biofuels and cellulosic biofuels.

Year-Round Sales of E-15: President Trump has expressed support for potentially lifting the restriction on year-round sales of E-15 gasoline. In a White House meeting on April 12, he said, "[W]e think we're going to do something, I will say, early -- and now this is no guarantee -- but we're going to raise it up to 15 percent, which makes a lot of people happy". The American Petroleum Institute (API) opposes this action, with API's Downstream Group Director commenting: "EPA has previously stated that it does not have the legal authority to grant the E15 waiver, and we agree with that assessment. The industry plans to consider all options to prevent such a waiver."

In an appearance at the National Association of Farm Broadcasting on April 24, EPA Administrator Scott Pruitt indicated that the agency is moving forward to grant the waiver, but explained the need for time to take the action: "this is not a matter of being dilatory; it's a matter of being smart and thoughtful about the basis of the decision." He explained that "we have to build a record," cautioning that failure to develop the proper analytical and legal foundation for a waiver could trigger "an avalanche of litigation." Pruitt added that the decision on authorizing year-round sales "may seem like it's taken some time…I'm pushing, I have been pushing for many months...we're working diligently to address the issue." During the April 26th hearing of the House Energy and Commerce Committee's Environment Subcommittee, Pruitt said that the decision on the E-15 waiver could come "very soon."

RIN Waivers: The EPA has recently issued waivers to refiners to temporarily lift their obligation to submit RINs to comply with the RFS. On April 12, Senators Chuck Grassley (R-IA), John Thune (R-SD), Roy Blunt (R-MO), Deb Fischer (R-NE), and Joni Ernst (R-IA) issued a statement declaring that "it makes no sense for the Administration to consider a cap or a waiver for the credits, which would devastate the farm economy and destroy the jobs of thousands of biofuels workers." The Senators decried the EPA's practice of granting "secret waivers." On April 17, Grassley led a letter to Pruitt, signed by 13 Senators, criticizing the waivers, and calling for the EPA to "[c]ease issuing any refinery waivers under the RFS."

House to Debate Nuclear Waste Policy Legislation

Key Point:

- *The House will consider a bill to authorize consolidated short-term and long-term storage of the radioactive spent fuel that is accumulating at nuclear power plants around the country.*

Next week, the House of Representatives is scheduled to vote on the "Nuclear Waste Policy Amendments Act of 2017" (H.R. 3053). The House Energy and Commerce Committee voted to report the legislation to the House on June 28, 2017. The legislation attempts to provide a long-term solution to dispose of the radioactive waste produced at commercial nuclear power plants.

As described in the committee report (H.Rept. 115-355), the legislation includes provisions that would:

- Direct the Department of Energy "to initiate a program to consolidate and temporarily store commercial SNF [spent nuclear fuel] during the development, construction, and initial operation of a" long-term waste storage facility.
- Address "Federal land withdrawal and related management issues associated with the licensing and construction of a permanent geologic repository at the Yucca Mountain, Nevada site."

- Authorize the Secretary of Energy to take title of SNF and "enter into new contracts or negotiate modifications to existing contracts for acceptance of title, subsequent transportation, and storage of HLW [high-level radioactive waste] or SNF, including the expedited titling, transportation, and storage of fuel to [a monitored retrievable storage facility] MRS from nuclear facilities that have ceased commercial operation…"

The House Rules Committee will meet on Tuesday, May 8 to vote on what amendments will be made in order for consideration during House floor debate.

Upcoming Hearings and Events

May 7

Fiscal Year 2019 Energy and Water Appropriations: The House Appropriations Committee's Energy and Water Development Subcommittee will mark up the Fiscal Year 2019 Energy and Water appropriations bill.

May 8

Puerto Rico Electric Grid: The Senate Energy and Natural Resources Committee will hold a hearing "to examine the current status of Puerto Rico's electric grid and proposals for the future operation of the grid."

Electric/Conventional Vehicle Policy: The House Energy and Commerce Committee's Environment Subcommittee will hold a hearing titled "Sharing the Road: Policy Implications of Electric and Conventional Vehicles in the Years Ahead."

May 9

Energy Diplomacy Legislation: The House Foreign Affairs Committee will hold a markup of pending legislation including the "Energy Diplomacy Act" (H.R. 5535). The legislation would create a new office in the Department of State of the Assistant Secretary of State for Energy Resources.

Energy Department Budget: The House Science, Space and Technology Committee will hold a hearing titled "An Overview of the Budget Proposal for the Department of Energy for FY2019." Secretary of Energy Rick Perry is scheduled to testify.

May 10

State of Electric Transmission Infrastructure: The House Energy and Commerce Committee's Energy Subcommittee will hold a hearing titled "Examining the State of Electric Transmission Infrastructure: Investment, Planning, Construction, and Alternatives." As described in a press release, the "hearing will review the activities of the electric transmission sector, including challenges associated with the planning and construction of new transmission lines, the effect of existing federal laws and regulations, and the consideration of non-transmission alternatives and technologies."

May 17

FERC Meeting: The Federal Energy Regulatory Commission (FERC) will hold its monthly open meeting.

June 4-5

EIA Energy Conference: The Energy Information Administration will hold its annual Energy Conference.

June 20

Pipeline Safety Information Sharing: The Pipeline and Hazardous Materials Safety Administration (PHMSA) will convene a meeting of its Voluntary Information-Sharing System Working Group. The "meeting will be to discuss and identify recommendations to establish a voluntary information-sharing system."

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.

DEFENSE

SIGAR Shows Smaller Afghan Forces; Pentagon Reiterates Goal Is Political Solution

Key Points:

- *Special IG finds that the Afghan army may have shrunk by nearly 10 percent in the past year at a time when violence is on the upswing.*
- *The DOD reiterates its commitment to standing by the Afghan government while trying to force a political solution.*

On April 30, the Special Inspector General for Afghanistan Reconstruction (SIGAR) released its most recent quarterly report "on the status of the U.S. reconstruction effort in Afghanistan" for the first quarter of calendar year 2018. While SIGAR reported greater cooperation from the Pentagon regarding statistics that were newly classified last year, the agency also asserted that based on available numbers, it is clear that Afghan forces are getting smaller.

SIGAR stated that it "continued to work with United States Forces-Afghanistan (USFOR-A) this quarter to maximize the amount of unclassified information that could be provided to Congress and the public on the U.S.-funded mission to train, advise, and assist the Afghan National Defense and Security Forces (ANDSF)." SIGAR said that "[a]s a result of these meetings and other consultations with the Department of Defense (DOD), USFOR-A declassified or allowed the public release of several different types of data related to the reconstruction of the Afghan security forces." SIGAR stated that "[a]mong them are the assigned, or actual, force strength of the ANDSF, which the latest figures show to be falling sharply over the last year."

SIGAR explained that "[a]s of March 31, 2018, the United States had appropriated approximately $126.26 billion for relief and reconstruction in Afghanistan since FY 2002…allocated as follows:

- $78.22 billion for security ($4.57 billion for counternarcotics initiatives)
- $33.00 billion for governance and development ($4.22 billion for counternarcotics initiatives)
- $3.42 billion for humanitarian aid
- $11.62 billion for civilian operations

SIGAR stated that of the $126.26 billion, "DOD had disbursed nearly $65.60 billion for ANDSF initiatives." However, SIGAR stated that "[t]his quarter, USFOR-A provided complete Afghan National Army (ANA) authorized (goal) strength figures in an unclassified format as well as top-line assigned (actual) strength figures." SIGAR found that:

> However, the assigned, or actual, strength of the ANA has decreased since the same period in 2017. As of January 31, 2018, assigned strength was 165,622 personnel, consisting of 74,184 soldiers, 58,678 noncommissioned officers, and 32,760 officers. This figure reflects 4,818 fewer soldiers, or 2.8 percent less, than

January 2017 (not including civilians). The ANA was therefore at 85.4 percent of its authorized strength in January 2018, down over five points from 90.6 percent one year prior, which is partially explained by the recent increase in the ANA's authorized strength.

On May 1, Secretary of Defense James Mattis was posed a question regarding "[t]he message from [the Pentagon] has consistently been that things, the situation is turning around; that things are improving there." Mattis responded that "I don't know that that's been the message from this building… [and] I would not subscribe to that." He said that "[w]e said last August NATO is going to hold the line… [and] [w]e knew there would be tough fighting going forward." Mattis asserted that "[t]he Afghan military is being made more capable… [and] [y]ou'll notice that more of the forces are special forces, advised and assisted, accompanied by NATO mentors, and these are the most effective forces." He declared that "[w]e'll stand by the Afghan people… [and] the Afghan government…[a]nd the NATO mission will continue, as we drive them to a political settlement."

At a May 3 press briefing by DOD Chief Spokesperson Dana White regarding SIGAR's finding that Afghan forces are getting smaller, she remarked "we're working by, with and through our partners…[and] [t]hat, as the Secretary said earlier this week, these are desperate attempts." White said that "our goal is to force the enemy to a political solution… [a]nd we're going to do that." She asserted that "the enemy gets a vote… [w]e will continue to work…[and] [w]e're there to stand with the Afghan government."

HASC Summary of NDAA

Key Point:

- *Ahead of its markup next week, the House Armed Services Committee releases a summary of the as of yet not released FY 2019 NDAA.*

Ahead of the markup next week, the House Armed Services Committee released a summary of the "National Defense Authorization Act (NDAA) for Fiscal Year 2019" (H.R. 5515). The Committee will release legislative text on May 7. The Committee claimed that the FY 2019 NDAA "implements new reforms designed to speed decision making and improve military agility, while simultaneously restoring readiness and increasing capability and capacity in a force that has been asked to do too much with too little for too long." The Committee said that the Chairman's Mark "complies with the ["Bipartisan Budget Act of 2018" (P.L. 115-123)] and supports a base budget of $639.1 billion, including significant increases for readiness recovery." The Committee added that "the Chairman's Proposal authorizes $18.5 billion to begin to rehabilitate and replace worn out Army equipment; $39.4 billion to begin to overcome the crisis in military aviation by getting more aircraft in the air; $36.0 billion to restore America's strength at sea, and $23.3 billion to sustain, repair and rebuild crumbling military buildings and other infrastructure." The Mark includes $69 billion for Overseas Contingency Operations (OCO) accounts for a topline of $717 billion authorized by the bill.

Upcoming Hearings and Events

May 7

FY 2019 Energy and Water Appropriations Markup: The House Appropriations Committee's Energy and Water Development, and Related Agencies Subcommittee will hold a markup of the FY 2019 Energy and Water Appropriations Bill.

May 9

NDAA Markup: The House Armed Services Committee will mark up the "National Defense Authorization Act (NDAA) for Fiscal Year 2019" (H.R. 5515).

U.S. Spending in Afghanistan: The Senate Homeland Security and Governmental Affairs Committee's Federal Spending Oversight and Emergency Management Subcommittee will hold a hearing titled "Afghanistan in Review: Oversight of U.S. Spending in Afghanistan."

For more information on defense issues you may email or call Michael Kans at 202-659-8201.

HEALTH

Upcoming Hearings and Meetings

May 8

Precision Medicine: Health Affairs will host a briefing featuring presentations on precision medicine.

Opioids: The House Education and the Workforce Committee will hold a hearing entitled "The Opioid Epidemic: Implications for the Federal Employees' Compensation Act."

Opioids: The House Energy and Commerce Committee will hold a hearing on "Combating the Opioid Epidemic: Examining Concerns About Distribution and Diversion."

Opioids: The House Judiciary Committee will hold a hearing on "Challenges and Solutions in the Opioid Abuse Crisis."

MA: The House Ways and Means Committee will hold a hearing on "The Current Status of and Quality in the Medicare Advantage Program."

Substance Use: The House Energy and Commerce Committee will hold a hearing on "Improving the Coordination and Quality of Substance Use Disorder Treatment."

May 9

Prices: The Kaiser Family Foundation and the Peterson Center on Healthcare will hold a forum on "Why are Healthcare Prices So High, and What can be Done about Them?"

Medical Marijuana: The Coalition for the Life Sciences and the Congressional Biomedical Research Caucus will hold a briefing on "Medical Marijuana: Is it the Medical Panacea Some Hope It to Be?"

May 10

Health IT: Politico will host a discussion on "Health Care Innovators: A Turning Point in Health Information Technology (IT)?"

May 11

Mental Health: The Heritage Foundation will hold a discussion on "Severe Mental Illness: Are Policies Helping or Hurting Those in Need?"

Drug Prices: The Alliance for Health Policy will hold a briefing on "State Opportunities to Address Prescription Drug Costs in Medicaid."

For more information about healthcare issues you may email or call Nicole Ruzinski Bertsch or George Olsen at 202-659-8201.

TRANSPORTATION & INFRASTRUCTURE

Collins and Reed Press DOT on BUILD Grants

Key Point:

- *Two key Senators question the Secretary on how the DOT is planning on changing the TIGER program in ways that may disadvantage states that have enacted revenue measures beyond the look back period in the criteria.*

On April 27, the Senate Appropriations Committee's Transportation and Housing and Urban Development Subcommittee Chairman and Ranking Member sent a letter to Secretary of Transportation Elaine Chao expressing their concern "with the Department's decision to insert controversial policies from the Administration's infrastructure proposal into the TIGER grant program, which could diminish the effectiveness of this grant program…[that] have not been agreed to or voted on by Congress, and there is clear bipartisan opposition to some of them." Last week, the U.S. Department of Transportation (DOT) released the FY 2018 Notice of Funding Opportunity (NOFO) for the renamed TIGER grants. The new "Better Utilizing Investments to Leverage Development (BUILD) Transportation Discretionary Grants" program is making available the $1.5 billion Congress appropriated for National Infrastructure Investment grants (aka TIGER grants).

Senators Susan Collins (R-ME) and Jack Reed (D-RI) explained that:

> Our primary concern is the use of non-Federal revenue for transportation infrastructure investment as merit criteria in evaluating applications. The NOFO requires applicants to secure and commit new, non-Federal revenue for transportation infrastructure investment, which will effectively force states to increase taxes or raise revenue through tolls or other fees. As you know, most state departments of transportation, transit agencies, port authorities, and metropolitan planning organizations are not able to raise revenue without enactment of a law by an independent legislative body. Holding transportation agencies responsible for raising revenue is simply unrealistic and detrimental to this grant program. While the NOFO allows applicants to describe broader legal or fiscal constraints that affect their ability to generate non-Federal revenue, it is unfair to ask transportation agencies that are in the business of building infrastructure to explain and defend the policy decisions made by an independent and political legislative body.

Collins and Reed added that "[t]he Department clearly recognizes that there may be broader legal or fiscal constraints that affect an applicant's ability to generate non-Federal revenue, but this simply reinforces our point that TIGER/BUILD is not suitable for testing new policies at this time." They stated that "[t]he criteria will be particularly detrimental to rural areas that are often least able to raise local revenue for transportation infrastructure." Collins and Reed stated that "[a]s the NOFO states, rural roads have higher fatality rates and maintain a greater share of road miles than others, but it is unclear how the Department will balance the needs of rural America with its new criteria to generate non-Federal revenue."

As with the Administration's infrastructure package, with the BUILD grant program, the DOT is again stressing the needs of rural communities and "intends to award a greater share of BUILD Transportation Discretionary Grant funding to projects located in rural areas that align well with the selection criteria than to such projects in urban areas." The DOT will award funds "on a competitive basis for projects that will have a significant local or regional impact." The DOT explained that "[m]any of the selection criteria of BUILD Transportation grants overlap with previous rounds of [TIGER] discretionary grants, though the program is refocused on infrastructure investment that will make a positive impact throughout the country." The DOT stated that "[t]he FY 2018 BUILD Transportation program will continue to give special consideration to projects located in rural areas." Consequently, the DOT will likely face questions as to how the BUILD grant program meets the requirement in the FY 2018 omnibus and previous practices in preceding rounds of TIGER with respect to distributing funds equitably between urban and rural areas.

Upcoming Hearings and Events

May 8

New Maritime Technologies: The House Transportation and Infrastructure Committee's Coast Guard and Maritime Transportation Subcommittee will hold a hearing titled "Blue Technologies: Use of New Maritime Technologies to Improve Efficiency and Mission Performance."

Conventional and Electric Vehicles: The House Energy and Commerce Committee's Environment Subcommittee will hold a hearing titled "Sharing the Road: Policy Implications of Electric and Conventional Vehicles in the Years Ahead."

UAV: The Senate Commerce, Science, and Transportation Committee's Aviation Operations, Safety, and Security Subcommittee will hold a hearing titled "Keeping Pace with Innovation – Update on the Safe Integration of Unmanned Aircraft Systems into the Airspace."

For more information on transportation issues you may email or call Michael Kans at 202-659-8201.

TECHNOLOGY

Warren, Schatz, Menendez Report on Equifax and CFPB

Key Point:

- *Three Democratic Senators release follow up report on the Equifax breach that focuses on the CFPB's actions.*

This week, Senators Elizabeth Warren (D-MA), Brian Schatz (D-HI), and Bob Menendez (D-NJ) released "the first comprehensive review of consumer complaints in the wake of the 2017 Equifax breach" according to their April 30, 2018 press release. They claimed that "[t]heir report found that in the six months following the breach, the Consumer Financial Protection Bureau (CFPB) received more than 20,000 complaints from consumers about the impact of the breach, problems with Equifax's response, or other issues with the company…[meaning] [t]he number of complaints about Equifax nearly doubled after the breach." Warren, Schatz, and Menendez also "sent their report to Acting CFPB Director Leandra English and Office of Management and Budget (OMB) Director Mick Mulvaney and pressed them to hold Equifax accountable and protect consumers from future data security breaches." They also "asked that Mr. Mulvaney abandon his plans - revealed last week to a room full of bankers - to hide certain CFPB consumer complaint data from the public."

Warren, Schatz, and Menendez highlighted the "[s]pecific findings:"

- In six months between September 7, 2017, when Equifax announced the breach of sensitive consumer information, and March 7, 2018, consumers have filed more than 20,000 complaints regarding Equifax.
- The CFPB received more than 7,000 complaints of improper use of a credit report after the breach, the risks of which jumped after Equifax exposed credit card numbers, birth dates, social security numbers, and other personal information belonging to millions of Americans.
- The CFPB received more than 7,000 complaints of incorrect information on a credit report, a problem made significantly more prevalent by the increased risk of identity theft in the aftermath of the Equifax breach.
- The CFPB received more than 3,000 complaints about Equifax's inadequate assistance in resolving problems after the breach, highlighting Equifax's inability or unwillingness to assist consumers with their concerns.
- The CFPB received more than 1,500 complaints regarding Equifax's credit monitoring services, fraud alerts, security freezes, and other identity theft protection products, demonstrating the company's inadequate consumer support services in the wake of the breach.

Warren, Schatz, and Menendez further asserted that:

- As part of its duty to consumers, the CFPB must continue a full-throated investigation into the Equifax breach, including the company's response and its efforts to work with consumers to mitigate the harm and repair any damage.
- The CFPB also must continue working with federal and state agencies to address critical cybersecurity issues in the credit reporting industry.
- Congress must also act to reign in abuses in the credit reporting industry that continue to put consumers at risk. Congress should pass the SECURE Act, introduced by Senators Warren and Schatz in September 2017, which would make it easier for consumers to dispute and correct errors in their credit reports.
- Congress should also pass the Data Breach Prevention and Compensation Act of 2018, introduced by Senators Warren and Warner in January, which would require the Federal Trade Commission (FTC) to promulgate cybersecurity standards for credit reporting agencies and would impose strict penalties on companies like Equifax whenever they fail to adequately protect consumer data.

Upcoming Hearings and Events

May 7

NPPD Nominee: The Senate Homeland Security and Governmental Affairs Committee will hold a business meeting to consider a number of nominations, including Christopher C. Krebs to be Under Secretary, National Protection and Programs Directorate, U.S. Department of Homeland Security.

May 8

Blockchain and Supply Chain: The Science, Space, and Technology Committee's Research and Technology and Oversight Subcommittees will hold a joint hearing titled "Leveraging Blockchain Technology to Improve Supply

Chain Management and Combat Counterfeit Goods."

May 9

CIA Nominee: The Senate Intelligence Committee will hold a hearing to consider the nomination of Central Intelligence Agency (CIA) Deputy Director Gina Haspel to be the CIA Director.

For more information on technology issues you may email or call Michael Kans at 202-659-8201.

TRADE

NAFTA Ministerial Discussions to Resume Monday, May 7

Key Points:

- With Trade Promotion Authority (TPA) deadlines looming, U.S. Trade Representative (USTR) Robert Lighthizer is looking to finalize the new deal by May 21 so the current Congress can vote on the agreement.
- Significant issues remain unresolved, including: automobile rules of origin, intellectual property, investor-state dispute settlement (ISDS) and the sunset clause.

On May 7, ministers from the U.S., Mexico, and Canada will gather in Washington DC in an attempt to finalize a new North American Free Trade Agreement (NAFTA) deal. USTR Lighthizer has stressed the importance of finishing the deal quickly and predicted that bringing the agreement before a different Congress "changes the whole way you… have to construct the deal. I believe if we don't get it done in the next week or two then we're on thin ice about whether it gets done before our election. He added that he has "no idea" if the countries will be able to reach an agreement.

The automobile rules of origin is one of the main sticking points that is holding up agreement on other unresolved issues. It has been reported that Lighthizer has proposed a revised rules of origin provision that would create a four-year phase-in for higher regional value content requirements and includes a new labor value content requirement. Automobile manufacturing companies would be eligible to extend the four-year phase-in by two years if they demonstrate "due diligence" in complying. This proposal would increase the overall labor value content threshold while also increasing the percentage weight of research and development. Under the proposal, 40 percent of a light-duty vehicle and 45 percent of pickup trucks must be made by workers making at least $16 per hour for the vehicle to be NAFTA-eligible. Salaries for R&D would count up to 15 percent of the threshold, up from the previous proposal's 5 percent. The revision also altered USTR's previous proposal that 70 percent of core parts must be made with North American steel and aluminum and would shift the responsibility from parts suppliers to vehicle manufacturers by applying the 70 percent requirement to purchases made by vehicle manufacturers.

USTR Lighthizer has not backed down from his commitment to a sunset clause that would require the three parties to renew the deal every five years. Many businesses and lawmakers are strongly opposed to this provision because of the economic uncertainty it could create. Negotiators have still not consolidated the intellectual property (IP) chapter text and some industry sources believe it is unlikely the chapter will be completed within USTR Lighthizer's timeframe. USTR Lighthizer has continued his push for an ISDS provision that would allow NAFTA countries to opt in or out of the settlement rules.

Administration Finalizes 232 Exemptions for Korea, Argentina, Australia, and Brazil

Key Points:

- USTR announced temporary extensions until June 1 from the section 232 steel and aluminum tariffs for the EU, Canada and Mexico.
- Other countries including South Korea, Brazil and Argentina have negotiated permanent exclusions. Korea and Brazil only received an exemption from steel tariffs while Argentina received exemptions from steel and aluminum tariffs.

On Monday, the White House announced it would temporarily extend relief from the tariffs imposed under Section 232 on steel and aluminum imports until June 1 for Canada, Mexico and the European Union (EU). The Administration also announced that deals in principle had been reached for permanent tariff exclusions with Argentina, Australia, Brazil, and South Korea. The announced agreements for tariff relief generally require that the importing country limit steel and/or aluminum exports to a certain percentage of previous years' totals. In the case of South Korea, the countries agreed to cap steel exports at 70 percent of last year's total. Argentina agreed to limit steel exports at 135 percent and aluminum exports at 100 percent of average exports to the U.S. over the last three years. Brazil agreed to a quota of 70 percent of its average annual finished steel exports. The details of the agreement with Australia have not yet been made public.

The EU reiterated this week they will not negotiate "under threat," and are prepared to respond with World Trade Organization (WTO) compliant countermeasures if the U.S. does not grant the member countries with a permanent exemption from the tariffs. European Commission President Jean-Claude Juncker said on Wednesday that the waiver for the EU "should be unconditional and permanent." An EU Commission spokesman said the nations are "preparing a triple WTO-compatible reaction in case the EU is not permanently exempted." However, Peter Navarro, the White House Director of Trade and Industrial Policy, said that all countries exempted from the Section 232 tariffs will be hit with quotas "or other restrictions" and added that the 30-day extensions granted to some early this week will be the last.

For more information about tax issues you may email or call Christopher Hatcher at 202-659-8201. Riyad Carey contributed to this section.

This Week in Congress was written by Ryan Schnepp.