

May 12, 2017

## Washington Update

### This Week in Congress

- **House** – The House was in recess.
- **Senate** – The Senate confirmed the nominations of Heather Wilson to serve as Secretary of the Air Force; Scott Gottlieb to serve as Commissioner of the Food and Drug Administration; and Robert Lighthizer to serve as the U.S. Trade Representative.

### Next Week in Congress

- **House** – The House is expected to consider “**Probation Officer Protection Act of 2017**” (H.R. 1039) and “**Thin Blue Line Act**” (H.R. 115).
- **Senate** – The Senate will consider the nomination Jeffrey Rosen to be Deputy Secretary of Transportation and Rachel Brand to be Associate Attorney General.

## TAX

### **Trump Administration, Senate, and House Continue to Have Differing Positions on Key Elements of Tax Reform**

#### *Key Points:*

- *Administration leans towards retaining interest deductibility while House Republican proposal repeals the provision*
- *President Trump’s top tax advisors dispute reports from Senate Finance Republicans that they oppose the border adjustment tax*
- *President Trump continues to discuss a “reciprocal tax”*

Interviews this week with President Donald Trump and Secretary of the Treasury Steven Mnuchin on the trump Administration’s tax plan show that significant differences remain left to be resolved with House Republicans. Regarding interest deductibility, they said the Administration is “contemplating” and would

prefer to retain the provision. Repealing the interest deduction is included in the House GOP tax reform proposal and accounts for about \$1 trillion of the plan’s offsets.

Mnuchin and National Economic Council Director Gary Cohn met with Republican members of the Senate Finance Committee this week where they discussed interest deductibility and the border adjustment tax. Senate Finance Committee Chairman Orrin Hatch (R-UT) reported Mnuchin and Cohn are opposed to the House GOP border adjustment tax proposal and said he has “a strong feeling” that

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the Administration is “not going to get rid of the interest deduction.”

Senator John Thune (R-SD) said Committee members agreed with Cohn and Mnuchin on the Administration’s general principles of tax reform and said the Administration is “committed to leaning in and engaging and trying to make sure that we get a bill that we can put on the desk and sign into law.”

Speaker of the House Paul Ryan (R-WI) and House Ways and Means Committee Chairman Kevin Brady (R-TX) continue to push for the border adjustment tax; and this week made efforts and held events designed to shift discussion from health care to tax reform.

Despite the clear divisions that remain, there are also stated efforts to achieve more consensus between the policy power centers on what a broad tax reform proposal would entail.

### Portman Working on Tax Reform Proposal

#### Key Points:

- *Senate Finance Committee Member with past roles as OMB Director and Ways and Means Member, Senator Portman is seen as a respected policy maker*
- *Portman is working to offer a concrete tax reform proposal for consideration, broadening the base and lower rates – though less than the Blueprint calls for - a product of several years of work in the area*

Senator Rob Portman (R-OH) has been working on a comprehensive tax reform proposal that may be released as soon as June or early summer. In an interview, Portman stated that “there’s a way to take what I would consider to be a more traditional pro-growth approach which some would think sounds less exciting but it’s about what’s doable.” He said

that “[t]hat would be lowering the rates and broadening the base.” Portman stated that “[y]ou do have to slim down some of the existing preferences in the code and get the rate down...[and] I believe it can be done in a neutral basis.”

He indicated the plan will propose a corporate tax rate that is less than 25 percent, with a five year phase-in to hold down costs. The proposal will be based on a budget baseline that reflects “current policy” rather than the “current law” baseline:

- Assumes expiring tax breaks over the next 10 years will be extended, which adds \$420 billion-\$460 billion more to the baseline compared to the baseline used in the draft released by former House Ways and Means Committee Chairman Dave Camp (R-MI)
- The additional funds would be reinvested in business tax breaks designed to grow the economy that will result in a favorable Joint Committee on Taxation (JCT) score, which Portman said could double their value and result in a \$1 trillion offset

Senator Portman said the plan is to show areas of potential agreement on tax reform amongst Senate and House Republicans and the Trump Administration.

### House to Begin Hearings on Tax Reform

#### Upcoming Dates

**May:** Trump Administration submits the balance of its FY 2018 budget request

**September 30:** FY 2017 ends and FAA extension and SCHIP authorization expire

**Fall 2017:** CBO’s projections of when Treasury exhausts extraordinary measures

## and Blueprint in May

### Key Points:

- *May 18 hearing is on pro-growth tax reform policies*
- *Another hearing the following week expected, focusing on policy aspects of the Blueprint*

The House Ways and Means Committee announced the first of at least two hearings. Next week, on May 18 the Committee will hold a hearing entitled “Hearing on How Tax Reform Will Grow Our Economy and Create Jobs.” In announcing the hearing, House Ways and Means Committee Chairman Kevin Brady (R-TX) stated:

“Ways and Means Republicans are focused on pro-growth, comprehensive tax reform because it will create jobs, increase paychecks, and grow our economy. We’ll hear from witnesses about specific policy proposals that deliver the most economic growth and how our ideas will directly help hardworking taxpayers and the businesses that create jobs across America.”

Also of interest, Tax Policy Subcommittee Chairman Peter Roskam (R-IL) mentioned the importance of permanent (as opposed to reform that must sunset because of reconciliation limits) tax reform in his statement.

A second hearing on the border adjustment and other policy issues is expected for May 23. Further hearings in June are certainly possible.

## Kautter Nominated as Assistant Secretary for Tax Policy

### Key Points:

- *Kautter is viewed as solid choice, though not likely to lead the tax reform efforts for the White House*

The White House officially announced the nomination David Kautter as the Assistant Secretary of the Treasury for Tax Policy. He is viewed as a strong choice with solid experience who can provide good counsel to the Secretary of the Treasury and White House.

Previously, Kautter worked at McGladrey LLP as the partner-in-charge of Washington National Tax. He also served as Ernst & Young’s Director of National Tax, the chief operating executive for the firm’s national tax practices. Kautter also served as the Legislative Counsel to Senator John Danforth (R-MO). Following retirement from EY, he was appointed the managing director of the Kogod Tax Center at the American University.

## Upcoming Hearings and Events

### May 18

***Tax Reform, Growth and Jobs:*** The House Ways and Means Committee will hold a hearing entitled “How Tax Reform Will Grow Our Economy and Create Jobs,” at 10:00 am. The witnesses have not yet been announced, through statements for the record can be submitted on the committee web site.

*For more information about tax issues you may [email](#) or call Christopher Hatcher at 202-659-8201. Nicholas Karellas and Laura Simmons contributed to this section.*

## TRADE

### Lighthizer Confirmed For USTR, NAFTA Notification Letter Expected Soon

### Key Points:

- *Lighthizer set to tackle a number of pending challenges, including the Trump Administration's approach to the free trade agreement with Canada and Mexico*

Robert Lighthizer was confirmed by the Senate as United States Trade Representative, by a vote of 82-14. The vote was delayed this week as a result of opposition from Senators John McCain (R-AZ) and Ben Sasse (R-NE). They both announced they would vote against his nomination, sending a [letter](#) in which they stated that the process “has failed to reassure us that you understand the North American Free Trade Agreement’s (NAFTA) positive economic benefits to our respective States and the nation as a whole.” There are several decisions awaiting Lighthizer at USTR, likely including a draft of the Notification to Congress of the intent to renegotiate NAFTA, which starts the 90-day clock and additional consultations with Congress before formal negotiations can begin under trade promotion authority (TPA).

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## **FINANCIAL SERVICES**

### **Senate Banking Committee Discusses Housing Finance Reform**

#### *Key Points:*

- *Chairman Mike Crapo (R-ID) stated that the conservatorship is not a sustainable model for the GSEs and he suggested that increasing the portion of credit risk held by the private sector will be key to housing finance reform.*
- *Majority Members of the Committee raised concern over the unwillingness of the FHFA to draw down on the line of credit available*

*through the Preferred Stock Purchase Agreements (PSPA) with the Treasury.*

On May 11, the Senate Banking Committee held a [hearing](#) on “The Status of the Housing Finance System After Nine Years of Conservatorship.” The Committee is likely to hold additional hearings on the government sponsored enterprises (GSEs) in the coming months. Chairman Mike Crapo (R-ID), in a [statement](#), said Fannie Mae and Freddie Mac have been in conservatorship for nearly nine years. He said the GSEs remaining in conservatorship is not a sustainable model, as the taxpayers retain too much risk and the government plays too large of a role in the market. Crapo said there has been an increased transfer of credit risk from the GSEs to the private sector, and he urged the FHFA to continue to explore different forms of risk transfer. He said increasing the portion of credit risk held by the private sector will be key to housing finance reform. Crapo noted the reform proposals that have been released by various groups, and explained that the Committee is considering these and other proposals about what the future system should look like. He also stated that an important question in housing finance reform is whether the Common Securitization Platform (CSP) should be utilized or whether other alternatives should be considered such as expanding the Ginnie Mae platform. He stated that housing finance reform remains the most important unfinished business following the financial crisis.

Ranking Member Sherrod Brown (D-OH), in a [statement](#), said the Committee should examine the gaps in the housing market, the originate to distribute model of certain lenders, exotic products, private label securities not backed by the GSEs which lack standardization, break downs in mortgage servicing, and the ability of

monoline insurers to fulfil their commitments. Brown said the affordable housing goals and the Duty to Serve Rule are important to helping underserved borrowers. He stressed the need to preserve the affordability and accessibility of the 30 year fixed rate mortgage.

Crapo and Senator Bob Corker (R-TN) raised concerns over the unwillingness of the FHFA to draw on the line of credit available through the Preferred Stock Purchase Agreements (PSPA). FHFA Director Mel Watt stated his responsibility is to keep the GSEs safe and sound. He stated if there is a risk that a draw would interrupt the market then he would hesitate to take that drawdown. When asked about the need for more private capital in the market, Watt stated that the FHFA has been encouraging more private capital participation. He noted that they have a goal of risk sharing on at least 90 percent of new single family loans meeting the laid out criteria. However, he suggested that this should remain a goal and not be a mandate as that would “tie the hands” of the FHFA to meet this amount. When asked whether the 30 year fixed mortgage could survive without a government backstop, Watt stated the FHFA has not developed a position on this issue. He stated that he “does not provide his personal opinion on these issues.” Senator Heidi Heitkamp (D-ND) asked the FHFA to look into this issue. Senator Elizabeth Warren (D-MA) raised the issue of principal reductions, suggesting that the FHFA has not fully utilized this option. Watt stated that the GSEs have conducted all of the principal reductions possible under the statute. Warren disagreed with this assertion and stressed the need for the GSEs to work on this issue more. Watt noted that the sales of the delinquent loans helped with this issue as the private sector has more ability to modify these loans.

## Federal Insurance Office Holds Meeting of the Federal Advisory Committee on Insurance

### Key Points:

- *The meeting included panels on the cyber insurance market, the effect of technological advances on insurers’ corporate strategies, and insurer infrastructure investment practices.*

On May 11, the Federal Insurance Office’s (FIO) Federal Advisory Committee on Insurance (FACI, Advisory Committee, or Committee) held an [open meeting](#) to discuss the following topics: (1) the Cyber Insurance Market; (2) the Effect of Technological Advances on Insurers’ Corporate Strategy; and (3) Insurer Infrastructure Investment Practices. FACI Chairman Daniel Glaser (Marsh & McLennan) noted that the Advisory Committee would hold its next meeting on August 17, 2017.

Marsh LLC Senior Vice President Matthew McCabe said cyber insurance is a specific product that addresses three core components: (1) cyber events that result in out of pocket spending; (2) system outages with corresponding lost revenues; and (3) cyber related litigation. He noted that technology is becoming more important for operations in the insurance industry. He explained that the surge cyber insurance take-up stems from companies that collect troves of personally identifiable information (PII). He said the largest buyers are data aggregating companies in sectors like healthcare and education.

TIAA Vice President of Accounting Policy Milum Livesay (representing the American Council of Life Insurers) stated that infrastructure investments are attractive to insurers because their long duration matches up well with the long-dated liabilities of insurers.

He said they are also attractive because they have stable and secure cash flows, allow for diversification, and have attractive risk-adjusted returns. He said infrastructure investments have greater cash flow certainty than equity investments. He stated that the challenges associated with infrastructure investments include getting information to the right people, navigating multiple regulatory agencies, and permitting processes.

### **SEC Holds Meeting of the Advisory Committee on Small and Emerging Companies**

#### *Key Points:*

- *The meeting included panel discussions on underwriting of small offerings, the tick size pilot program, and NASAA enforcement.*
- *The Advisory Committee approved recommendations on the broker-dealer status of finders and secondary market liquidity in Regulation A.*

On May 10, the Securities and Exchange Commission (SEC) convened a [meeting](#) of the Advisory Committee on Small and Emerging Companies (Advisory Committee) to: (1) discuss the underwriting of small offerings; (2) receive an update on the tick size pilot program from staff of the SEC's Division of Trading and Markets and Division of Economic and Risk Analysis (DERA); and (3) receive a presentation on the North American Securities Administrators Association's (NASAA) 2016 Enforcement Report. The Advisory Committee also approved recommendations on: (1) [the broker-dealer status of finders](#); and (2) [secondary market liquidity in Regulation A](#).

Chairman Jay Clayton, in a [statement](#), said facilitating capital formation is one of the central tenets of the SEC's mission. He stressed the need to expand capital formation, including

for small and medium sized businesses. He said the Advisory Committee has already made important recommendations. He stated that the SEC needs to examine the topics of finders, small underwriters, and the tick size pilot, suggesting that they could be areas for action.

Commissioner Kara Stein said the Advisory Committee would examine the underwriting of small offerings and finalize recommendations on secondary market liquidity and the broker-dealer status of finders. She emphasized the importance of investor confidence to allowing smaller companies to access capital. She stressed the need to have appropriate safeguards to protect investors from fraud. She urged the Advisory Committee to focus on balancing capital formation with investor protection. She said preliminary data from the tick size pilot may provide insights on the efficacy of wider tick sizes and their impact on investors.

Advisory Committee Co-Chair Stephen Graham (Fenwick & West's Life Sciences Practice Co-Chair) said the Committee will hold its next meeting on September 13, 2017. He noted that this would be the last meeting of the Advisory Committee as currently constituted.

### **SEC-NYU Dialog on Reviving the U.S. IPO Market**

#### *Key Points:*

- *The SEC in consultation with the NYU Stern School of Business held a dialog on the state of the U.S. IPO market and what can be done to revive the market.*

On May 10, the Securities and Exchange Commission (SEC) [held](#) a "SEC-NYU Dialogue on Securities Market Regulation – Reviewing the U.S. IPO Market." The first

session focused on a “review of the current state of the U.S. IPO market from an academic perspective and a discussion of the economic causes and consequences of the continued weak IPO market.” The second session focused on “what has led to the current state of the IPO market, including changes in technology and funding sources, the microeconomic environment, regulatory and institutional influences, and the challenges these issues pose for firms seeking to raise capital.” The final session focused on “what can be done to revive the IPO market, focusing on possible solutions driven by the needs of the IPO market, participants, as well as potential regulatory responses.”

SEC Commissioner Michael Piowar in a [statement](#) noted the importance of capital formation and the IPO markets. He stated a robust IPO market encourages entrepreneurship and investment. Piowar noted the recent decline in the number of IPOs conducted annually and stated that regulations such as Regulation NMS have made the markets less friendly for small IPOs. He noted that new Chairman Jay Clayton has expressed a focus on making capital markets more attractive while maintaining investor protections.

Ohio State University Chair of Banking and Monetary Economics and the Director of the Dice Center for Research in Financial Economics Rene Stulz noted a 50 percent collapse in the number of IPOs since 1997 and this collapse only occurred in the U.S. He suggested that the decline in IPOs is due to the fact that the current value of going public no longer outweighs the costs. He suggested this balance needs to be “realigned” but is not solely caused by regulations. Cornell University Finance Professor Roni Michaely stated that policy makers and regulators should focus on

decreasing the barriers to entry and attempt to make private firms look more like public firms. New York University Finance Professor Alexander Ljungqvist suggested that the decline in IPOs is part of a larger market trend. Sequoia Capital Global CFO Chris Cooper stated a lot of the underlying trends in terms of asset productivity, the size of public firms, and the disaggregation of assets classes is largely driven by globalization.

When asked about the benefits of the JOBS Act, Wilson Sonsini Partner Steve Bochner stated the benefits were incremental. He stated confidential submissions and testing the waters provisions are widely used and beneficial for companies exploring the markets. When asked whether IPOs might be less attractive, NASDAQ Senior Vice President and Chief Economist Frank Hatheway stated smaller companies are not as present in the markets as they were. He stated the way the markets are set up today is good for large companies and less so for small companies. KKR Head of Capital Markets Adam Smith noted the trend of staying private longer. He stated the public markets reward companies with bigger market caps. He acknowledged it is better to stay private longer so when they enter the public markets they are better able to survive. NYSE Group President Thomas Farley stated this is a complex issue and the research has no consensus. He suggested private companies are less likely to go public for three broad reasons: (1) they are afraid of what public ownership means for their business, including shareholder activism; (2) regulation; and (3) access to capital. Oppenheimer Managing Director and Head of Technology for IB Robin Graham suggested the IPO market does not need to be revived; rather there has simply been a shift in when companies go public.

## FSOC Meets to Discuss Financial Regulation, Designation Reevaluation

### Key Points:

- *The Financial Stability Oversight Council (FSOC) met in closed session to discuss an ongoing reevaluation of its designation of a nonbank financial company, core principles for financial regulation, assessments of the Volker rule, and other matters.*

On May 8, the Financial Stability Oversight Council (FSOC), chaired by Secretary of the Treasury Steven Mnuchin, met in executive session to discuss several matters. The Department of the Treasury [readout](#) summarized the topics discussed, which included: (1) an “update from Treasury staff on the April 21 Presidential Memorandum for the Secretary of the Treasury regarding Council designations”; (2) “the ongoing annual reevaluation of its designation of a nonbank financial company, including preliminary staff analysis”; (3) “interagency regulatory coordination and the February 3 Presidential Executive Order on core principles for regulating the U.S. financial system,” including “efforts to assess the efficacy of the Volker Rule”; and (4) “an update by staff from the Federal Reserve and Federal Deposit Insurance Corporation (FDIC) on bank holding companies’ living wills and resolution planning.”

## Upcoming Hearings and Events

### May 16

**Nominations:** The Senate Banking Committee will hold a hearing to consider the nominations of: Sigal Mandelker to be Under Secretary of Treasury for Terrorism and Financial Crimes; Marshall Billingslea to be Assistant Secretary of the Treasury for Terrorist Financing; Heath Tarbert to be Assistant Secretary of the

Treasury for International Markets and Development; and Mira Radielovic Ricardel to be Under Secretary of Commerce for Export Administration.

### May 17

**CFPB Academic Research Council:** The Consumer Financial Protection Bureau (CFPB) will hold a meeting of its Academic Research Council to discuss methodology and direction for consumer finance research at the Bureau.

**SBA 7(a) Loan Program:** The House Committee on Small Business will hold a hearing to examine the Small Business Administration’s (SBA) 7(a) Loan Program. Witnesses will include Linda Rusche, Director of the Office of Credit Risk Management, SBA, and William Manger, Associate Administrator, Office of Capital Access, SBA.

### May 18

**Domestic and International Policy:** The Senate Banking Committee will hold a hearing entitled “Domestic and International Policy Update.” Treasury Secretary Steven Mnuchin is scheduled to testify.

**Retirement Savings:** The House Education and the Workforce Committee’s Subcommittee on Health, Employment, Labor and Pensions will hold a hearing entitled “Regulatory Barriers Facing Workers and Families Saving for Retirement.”

**IMF Bailout of Greece:** The House Financial Services Committee’s Subcommittee on Monetary Policy and Trade will hold a hearing entitled “Lessons from the IMF’s Bailout of Greece.”

*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**

### **OMB Issues Guidance on “Energy Independence” Executive Order**

#### *Key Points:*

- *On Monday, the Office of Management and Budget issued a memorandum to federal agencies that provides details on implementing the President’s Executive Order titled “Promoting Energy Independence and Economic Growth”.*
- *The memorandum describes how agencies should execute the provisions of the Executive Order calling for broad review of existing rules “...that potentially burden the development or use of domestically produced energy resources...”*

On May 8, 2017, the Office of Management and Budget (OMB) issued a [memorandum](#) titled “Guidance for Section 2 of Executive Order 13783, titled ‘Promoting Energy Independence and Economic Growth’”. [E.O. 13783](#) directs federal agencies to review, and potentially suspend, revise or repeal, existing regulations that impact domestic energy development.

Section 2 of the Executive Order is titled “Immediate Review of All Agency Actions that Potentially Burden the Safe, Efficient Development of Domestic Energy Resources”. The Executive Order requires the “heads of agencies [to]...review all existing regulations, orders, guidance documents, policies, and any other similar agency actions...that potentially burden the development or use of domestically produced energy resources, with particular attention to oil, natural gas, coal, and nuclear energy resources.” Exempted from this directive are “agency actions that are mandated by law, necessary for the public interest, and consistent with” the Executive Order. To carry

out this requirement, agencies must submit plans for conducting the mandated regulatory review to the Director of the OMB within 45 days (May 12, 2017). Within 120 days (July 26, 2017), agencies are required to provide to the OMB Director, the Vice President, and other officials, “a draft final report...[that] shall include specific recommendations that, to the extent permitted by law, could alleviate or eliminate aspects of agency actions that burden domestic energy production.” The agencies must submit final reports within 180 days (September 24, 2017). To carry out the recommendations outlined in these reports, agencies must “as soon as practicable, suspend, revise, or rescind, or publish for notice and comment proposed rules suspending, revising, or rescinding, those actions, as appropriate and consistent with law.”

Other provisions of E.O. 13783 require agencies to review and take action to “suspend, revise, or rescind” a variety of specific regulations, including: the Environmental Protection Agency’s (EPA) Clean Power Plan, the Department of Interior’s moratorium on coal leasing on federal lands, the EPA’s regulations for new oil and gas sector sources of methane emissions, and other greenhouse gas regulations. The May 8<sup>th</sup> OMB memo does not address these provisions of the Executive Order, and is instead limited to providing guidance on implementing the general regulatory review directed by Section 2.

The memorandum states that its “guidance” applies “to all Executive Departments and Agencies, except for independent regulatory agencies”, citing the definition of independent agencies found in [44 U.S.C. 3502](#). Independent agencies include the Federal Energy Regulatory Commission (FERC), the Commodity Futures Trading Commission (CFTC) and the Nuclear Regulatory Commission (NRC). The

memorandum adds however that “[i]ndependent regulatory agencies are encouraged to provide a plan and report in response to EO 13783, especially those independent regulatory agencies that directly regulate the development or use of domestically produced energy resources.”

The memorandum declares that agencies are not required to review regulations or other actions that are: “(1) Mandated by law; (2) Necessary for the public interest; and (3) Consistent with the policy set forth in Section 1 of EO 13783”. Section 1 of the Executive Order describes a series of policy objectives related to the “clean and safe development” of affordable domestic energy resources. The memorandum further states that if an agency finds that a regulation or other action meets these requirements for exemption from the Executive Order, “the agency should identify those actions in the written statement to the OMB Director, along with a brief explanation of the basis for this determination, no later than May 12, 2017.”

Also, if an agency determines it has not issued any regulations or executed other actions that “potentially burden the development or use of domestically produced energy resources”, it should “state that in a written statement to the OMB Director, along with a brief explanation of the basis for this determination, no later than May 12, 2017.”

### **Senate Rejects Repeal of Venting and Flaring Rule**

#### *Key Points:*

- *The Senate narrowly defeated an effort to advance legislation that would repeal the Obama Administration’s rule targeting the venting and flaring of natural gas from production sites and facilities on federal lands.*

- *While Congress will not repeal this rule, the Trump Administration is working to potentially revise or rescind it.*

On May 10, the Senate failed, by a [49-51 vote](#), to advance the resolution to repeal the Department of Interior’s regulations limiting the venting and flaring of natural gas on federal lands. On February 3, 2017, the House of Representatives approved the Congressional Review Act (CRA) resolution titled “Providing for congressional disapproval...of the final rule of the Bureau of Land Management relating to ‘Waste Prevention, Production Subject to Royalties, and Resource Conservation’” ([H.J.Res. 36](#)) by a [221-191 vote](#). Congress enacted the CRA as part of the “Contract with America Advancement Act” ([P.L. 104-121](#)) in 1996. The CRA established an expedited process for Congress to repeal recently promulgated regulations through passage of joint resolutions signed into law by the President. Since late January, Congress has acted on a series of resolutions repealing regulations issued in the closing months of the Obama Administration.

The Bureau of Land Management (BLM) published the [final rule](#) titled “Waste Prevention, Production Subject to Royalties, and Resource Conservation” on November 18, 2016. As described by the Obama Administration, the rule is intended “to reduce waste of natural gas from venting, flaring, and leaks during oil and natural gas production activities on onshore Federal and Indian...leases....[and would] also clarify when produced gas lost through venting, flaring, or leaks is subject to royalties, and when oil and gas production may be used royalty-free on-site.” As described in a Department of Interior [press release](#), the rule would require operators to “periodically inspect their operations for leaks, and replace outdated equipment that

vents large quantities of gas into the air... [and] limit venting from storage tanks and to use best practices to limit gas losses when removing liquids from wells.”

While Congress failed to repeal the rule using the CRA, the Trump Administration is taking steps to potentially rescind the regulations administratively. On March 28, 2017, President Trump signed an Executive Order titled “Promoting Energy Independence and Economic Growth” ([E.O. 13783](#)), which directed the Secretary of Interior to review the final rule, and “if appropriate...publish for notice and comment proposed rules suspending, revising, or rescinding” the rule. On March 29, 2017, Secretary of Interior Ryan Zinke signed [Secretarial Order 3349](#), which directs the BLM to “review the final rule...and report to the Assistant Secretary - Land and Minerals Management”. Following this week’s Senate vote, Acting Assistant Secretary of the Interior for Land and Minerals Kate MacGregor issued a [statement](#) declaring: “As part of President Trump’s America-First Energy Strategy and executive order, the Department has reviewed and flagged the Waste Prevention rule as one we will suspend, revise or rescind given its significant regulatory burden that encumbers American energy production, economic growth and job creation.”

### Energy Briefs:

#### *Key Points:*

- *The President submitted two nominations to fill vacancies on the Federal Energy Regulatory Commission.*
- *The Senate Environment and Public Works Committee held a hearing on the Endangered Species Act.*

Energy and environment policy developments this week included:

- ***FERC Nominees:*** On May 10, President Trump [submitted two nominations](#) for the Federal Energy Regulatory Commission (FERC) to the Senate: Neil Chatterjee, energy policy advisor to Senate Majority Leader Mitch McConnell (R-KY); and Pennsylvania Public Utility Commission Commissioner Robert Powelson. If confirmed, Chatterjee and Powelson would fill two of the three vacancies on the Commission. FERC has operated without a quorum since February 3, 2017, when former Chairman Norman Bay resigned leaving the Commission with only two commissioners. In addition, Commissioner Collette Honorable, one of the two remaining commissioners, [announced](#) on April 28, that she would not seek another term when her current term expires on June 30, 2017. Under the statute governing FERC, Honorable may continue to serve past June 30<sup>th</sup> until the end of the current session of Congress, pending confirmation of her replacement.
- ***Endangered Species Act Hearing:*** On May 10, the Senate Environment and Public Works Committee held a [hearing](#) titled “Conservation, Consultation, and Capacity: State Views on the Need to Modernize the Endangered Species Act.” Topics discussed in the hearing included: state role in implementing the Endangered Species Act; conservation programs; private land owner accommodation; U.S. Fish and Wildlife Service species petitions; Section 6 of the Endangered Species Act; and critical habitat designation. Witnesses testifying at the

hearing were: Nick Wiley, Executive Director, Florida Fish and Wildlife Conservation Commission, and President, Association of Fish & Wildlife Agencies; Larry Voyles, Director, Arizona Game and Fish Department, and Former President, Association of Fish & Wildlife Agencies; and Janet Coit, Director, Rhode Island Department of Environmental Management.

## Upcoming Hearings and Events

### May 17

***South America Energy:*** The House Foreign Affairs Committee’s Western Hemisphere Subcommittee will hold a [hearing](#) titled “Energy Opportunities in South America”. Scheduled witnesses are: Jorge Pinon, Director of the Latin America and Caribbean Program in the University of Texas at Austin’s Jackson School of Geosciences; Lisa Viscidi, Director of Inter-American Dialogue’s Energy, Climate Change, and Extractive Industries Program; and Jason Bordoff, Professor and Director of Columbia University’s Center on Global Energy Policy, School of International and Public Affairs.

***“Rigs to Reefs” Program:*** The House Natural Resources Committee’s Subcommittee on Energy and Mineral Resources will hold a [hearing](#) titled “Reviewing Recent State Successes with the Rigs to Reefs Program”.

### May 18

***Deputy Interior Secretary Nomination:*** The Senate Energy and Natural Resources Committee will hold a [hearing](#) on the nomination of David Bernhardt to be Deputy Interior Secretary.

***Pending Legislation:*** The House Natural Resources Committee’s Subcommittee on Water, Power and Oceans will hold a [hearing](#) on the “Western Area Power Administration Transparency Act” ([H.R. 2371](#)), and the “Water Rights Protection Act” discussion draft ([H.R. —](#)).

### June 6-7

***Gas Pipeline Advisory Committee:*** The Pipeline and Hazardous Materials Administration’s (PHMSA) Gas Pipeline Advisory Committee will hold a meeting. The meeting is expected to include discussion of the [Notice of Proposed Rulemaking \(NPRM\)](#) titled “Pipeline Safety: Safety of Gas Transmission and Gathering Pipelines”.

### June 26-27

***EIA Energy Conference:*** The Energy Information Administration (EIA) will hold its annual [Energy Conference](#). Conference topics include: “U.S. exports of crude oil and petroleum products”; “Renewable finance and project costs”; “The energy-water nexus and induced seismicity”; “The future of nuclear power”; “Gasoline fuel quality and octane supply”; “Big data and energy information”; “Natural gas infrastructure to serve growing markets”; “Coal and natural gas competition”; and “Human behavior and energy use in buildings”.

### June 26-28

***Increasing Market and Planning Efficiency through Improved Software:*** The Federal Energy Regulatory Commission (FERC) will hold a [technical conference](#) on “opportunities for increasing real-time and day-ahead market efficiency through improved software.”

*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**

### **Wilson Confirmed As Air Force Secretary; Green Withdraws**

#### *Key Points:*

- *First service secretary confirmed*
- *Second trump Secretary of the Army nominee removes name from consideration*

This week one of President Donald Trump's nominees to head a service branch was confirmed a few days after another nominee withdrew from consideration. This week, former Representative Heather Wilson (R-NM) was confirmed by the Senate by a [76-22 vote](#) to be Secretary of the Air Force, becoming the first service Secretary of the Trump Administration. Wilson was nominated in January for the position.

Late last week, Tennessee State Senator Mark Green pulled his name out of consideration for Secretary of the Army. A former Army surgeon and West Point graduate, Green issued a statement expressing his regret in withdrawing but asserted that "unfortunately due to false and misleading attacks against me, this nomination has become a distraction." Green is the second nominee to head the Army to withdraw from consideration. On February 4, Vincent Viola informed the President that he would not be willing to undergo consideration to be Secretary of the Army. Reportedly, Viola's nomination was opposed by Secretary of Defense James Mattis.

### **Afghanistan Troop Increase Floated**

#### *Key Points:*

- *White House may send 3,000 more troops in order to ultimately force a negotiated settlement*
- *Such a decision would reverse the trend line in troop numbers in Afghanistan*
- *DOD would be reportedly be able to set troop levels thereafter*

Rumors about sending more U.S. troops to Afghanistan became more substantial amidst news articles quoting unnamed Administration and Department of Defense (DOD) officials that President Donald Trump will be given a recommendation to deploy 3,000 more soldiers that could be paired with a similar troop commitment by U.S. allies. At present, there are roughly 8,500 U.S. troops in Afghanistan and a few thousand more NATO troops. Reportedly, any troop increase would be conditioned on the Afghan government addressing governance and corruption issues. However, senior Administration officials suggested that the troop increase would be designed to foster negotiations to end hostilities between President Ashraf Ghani's government in Kabul and the Taliban. According to these reports, Trump may decide whether he will accept these recommendations by the North Atlantic Treaty Organization (NATO) Summit in Brussels on May 25.

Additionally, reports indicate that going forward, Trump would effectively delegate the decision on setting troop levels in Afghanistan to the DOD although it is unclear whether Secretary of Defense James Mattis would exercise this authority alone. Moreover, U.S. troops carrying out advice and assist missions would be able to operate under the same rules of engagement as U.S. troops engaged in counterterrorism.

Reactions on Capitol Hill largely split along party lines. Senate Armed Services Committee Chairman John McCain (R-AZ) said "I expect

to see a strategy to win...[a]nd that's going to require more troops, thousands more....more effort...[and] more money.” Senator Richard Blumenthal (D-CT) stated that “[w]e need to make sure the president of the United States comes to us and gets the American people to approve when he is conducting a war...[and] [c]ommitment of additional ground troops is an ominous sign of what is to come.”

## CYBERCOM Hearing

### *Key Points:*

- *Senate Armed Services Committee looked at growing threat and prominence of cyber in 21st Century warfare and information operations*

On May 9, The Senate Committee on Armed Services held a [hearing](#) on “United States Cyber Command.” Topics discussed in the hearing included, but were not limited to: (1) Information Warfare; (2) Russian Interference of Elections; (3) U.S. Cyber Capabilities; (4) U.S. Cyber Defense Structure; (5) Human Capital & Recruitment; (6) North Korea; (7) Learning from Allies; and (8) Private Sector Coordination.

Chairman John McCain (R-AZ) stated that while the U.S. is growing in cyber ability, the nation remains woefully unprepared to address new threats that will be a defining feature of 20th Century warfare. He stated the Committee is concerned about the lack of strategy pertaining to deterrence and policy. He expressed disappointment in that the Administration promised action within 90 days after the inauguration, but has yet to fulfill that promise. He said the Committee has passed over 50 provisions over the past four years in order to enable the Department of Defense (DOD) to deter and defend against threats in cyberspace. He said cyber requires a whole and

integrated approach, and the U.S. does not have that now.

Ranking Member Jack Reed (D-RI) expressed concern that hostile powers such as Russia are performing manipulation of information through cyberspace. He said achieving a credible deterrent requires integration of capabilities and focused policy across the DOD and the whole of government. He argued that the new Administration does not appreciate these issues or refuses to address them. He stated that Cyber Command is nearly exclusively focused on the technical aspects of cyber operations such as detecting network intrusions, expelling intruders, and figuring out how to penetrate the networks of adversaries. He said this approach ignores the cognitive element of information operations conducted through cyberspace, such as manipulating information and influencing decision making.

United States Cyber Command Commander and National Security Agency (NSA) Director Admiral Michael Rogers stated that attackers have increased their abilities with both speed and precision. He said that the three Cyber Command lines of operation are to provide mission assurance for DOD operations and defend the DOD information environment, to support joint force commander objectives globally, and to deter and defeat threats to U.S. interests and critical infrastructure. He noted that defense of DOD information is the top priority, which includes weapons systems, platforms, and data. He declared that the Cyber Missions Force is set to be operational by the end of the 2018 fiscal year. He stated that the DOD is complying with the recent National Defense Authorization Act to elevate Cyber Command to unified combatant command status. He noted his position as head of Cyber Command and the NSA provides a significant benefit in facilitating cyberspace operations. He

said that as the relationship between the two roles evolve; his position may split provided there is no decrease in effectiveness.

## Upcoming Hearings and Events

### May 17

***Military Space Programs:*** The Senate Armed Services Committee’s Strategic Forces Subcommittee will hold a [hearing](#) titled “Military Space Organization, Policy, and Programs.”

***Small Arms:*** The Senate Armed Services Committee’s Airland Subcommittee will hold a [hearing](#) titled “United States Military Small Arms Requirements.”

***DOD Acquisition Reform:*** The House Armed Services Committee will hold a hearing on reforming the Department of Defense’s acquisition practices.

***Pentagon Personnel:*** The House Armed Services Committee’s Military Personnel Subcommittee will hold a hearing on the Department of Defense’s military personnel posture.

***U.S.-ASEAN Relations:*** The House Foreign Affairs Committee’s Asia and the Pacific Subcommittee will hold a [hearing](#) titled “Revitalizing U.S.-ASEAN Relations.”

***The Balkans:*** The House Foreign Affairs Committee’s Europe, Eurasia, and Emerging Threats Subcommittee will hold a [hearing](#) titled “The Balkans: Threats to Peace and Stability.”

### May 18

***Nominations Hearing:*** The Senate Armed Services Committee will hold a [hearing](#) to consider the following nominations: Kari A. Bingen to be Principal Deputy Under Secretary

of Defense for Intelligence; Robert S. Karem to be Assistant Secretary of Defense for International Security Affairs; Kenneth P. Rapuano to be Assistant Secretary of Defense for Homeland Defense and Global Security; and Ryan D. Newman to be General Counsel of the Department of the Army

***Amphibious Warfare:*** The House Armed Services Committee’s Seapower and Projection Forces Subcommittee will hold a hearing on amphibious operations in contested environments.

### May 19

***Space and National Security:*** House Armed Services Committee’s Strategic Forces Subcommittee will hold a hearing on the national security space enterprise.

*For more information on defense issues you may [email](#) or call Michael Kans at 202-659-8201. Jackson McLendon and Alex Hopkins contributed to this section.*

## HEALTH

### **Senate Confirms Gottlieb for FDA Commissioner**

#### *Key Points:*

- *The Senate approved the nomination of Scott Gottlieb to be Commissioner of the Food and Drug Administration 57-42.*

On May 9, the Senate confirmed the nomination of Scott Gottlieb to be Commissioner of the Food and Drug Administration (FDA) 57-42. Senate Majority Leader Mitch McConnell (R-KY) praised the nominee saying he “has the necessary qualifications to lead the FDA this critical time.”

Democrats had raised concerns about Gottlieb's potential ties to industry. On the Senate floor, Senator Ed Markey (D-MA) expressed concern Gottlieb had worked too closely with companies that sell and promote opioids. He asserted "we need FDA to be a tough cop on the beat, not a rubber stamp approving the latest big pharma painkillers." At his confirmation hearing, Gottlieb said addressing the opioid crisis would be the FDA's top priority.

Senate Health, Education, Labor and Pensions Committee Chairman Lamar Alexander (R-TN) asserted under Gottlieb's leadership, "the FDA can capitalize on the significant funding Congress has given to medical research and make sure patients benefit from last year's 21st Century Cures Act."

### Senate HELP Committee Marks Up FDA User Fee Reauthorization

#### Key Points:

- *The Committee favorably reported the Food and Drug Administration Reauthorization Act of 2017, as amended, by roll call vote 21-2.*
- *The Committee voted to table an amendment offered by Senator Bernie Sanders (I-VT) that would have permitted the importation of prescription drugs from Canada.*

On May 11, the Senate Health, Education, Labor and Pensions (HELP) Committee held a [markup](#) of the "Food and Drug Administration Reauthorization Act of 2017" (S. 934) which reauthorizes all four Food and Drug Administration (FDA) user fee programs for 2018-2022. The Committee favorably reported the bill, as amended, by roll call vote 21-2. The bill now goes to the Senate floor.

Senate HELP Chairman Lamar Alexander (R-TN) stated this vote was "an important step in the timely reauthorizing of the user fee agreements that fund the FDA." In his opening remarks, he emphasized failure to reauthorize these user fee by the August recess will result in the FDA laying off thousands of employees.

Senator Bernie Sanders (I-VT) offered an amendment that contained legislation he had previously introduced, the "Affordable and Safe Prescription Drug Importation Act" ([S. 469](#)). The amendment would permit the Secretary of Health and Human Services to allow importation from other advanced countries. It also includes safeguards to ensure safety including FDA certification of foreign sellers, limit on what drugs can be imported, and supply chain requirements. Alexander made a motion to table the amendment, arguing debate on the amendment should occur on the Senate floor. The motion to table the amendment was agreed to by roll call vote 13-10. Senate HELP Committee Ranking Member Patty Murray (D-WA) was the only Democrat to vote for tabling the amendment.

### Senate Begins Work on ACA Repeal Legislation

#### Key Points:

- *Senators have said the Senate will be working on its own legislation rather than amending the House-passed American Health Care Act.*
- *Health and Human Services Secretary Tom Price stated the Senate will vote on the bill before the August recess.*

A Senate working group formed by Majority Leader Mitch McConnell (R-KY) has begun its work to craft a Senate bill to repeal and replace the Affordable Care Act (ACA). McConnell has indicated the legislation will not be passed quickly.

Moderates in the Senate had expressed concern with the American Health Care Act (AHCA). They are especially concerned with changes to Medicaid that would create instability for the Medicaid expansion population. Some divisions have even emerged among this group. Senator Rob Portman (R-OH) has been supportive of rolling back Medicaid expansion so long as there is a “soft landing.” Senator Shelley Moore Capito (R-WV) has expressed support for maintain expansion coverage.

Senate Democrats sent a letter to McConnell calling for an open and transparent process. They expressed a willingness to work with Republicans on reducing costs of prescription drugs, lowering premiums and out-of-pocket costs, stabilizing the insurance market, and helping more people get insurance. Republicans have indicated they will not hold hearing on potential health reform legislation.

This week, Secretary of Health and Human Service Tom Price stated he expects the Senate to produce a bill this summer with a vote before the August recess. McConnell has not yet laid out a timeline.

## Upcoming Hearings and Events

### May 16

**Medicare:** The Senate Finance Committee will hold a hearing on “Examining Bipartisan Medicare Policies that Improve Care for Patients with Chronic Conditions.”

### May 17

**NIH:** The House Appropriations Committee will hold a hearing on “Advances in Biomedical Research.”

**Public Health:** The House Energy and Commerce Committee will hold a hearing on

“Examining Initiatives to Advance Public Health.”

**Maternal Health:** The National Coalition on Maternal Mental Health will hold a hearing on “Maternal Mental Health: Sustainable State and Local Programs.”

**Rare Disease:** The Rare Disease Congressional Congress will hold a briefing on “Incentivizing Innovation for Rare Disease Treatment Development.”

### May 18

**Medicare:** The House Ways and Means Committee will hold a hearing on “Current Status of the Medicare Program, Payment Systems, and Extenders.”

*For more information about healthcare issues you may [email](#) or call Nicole Ruzinski or George Olsen at 202-659-8201.*

## TRANSPORTATION AND INFRASTRUCTURE

### Committee May Consider FAA Reauthorization Next Month

#### *Key Points:*

- *Thune suggests reauthorization could be marked up next month in committee and be put on the Senate floor in July*
- *House Transportation and Infrastructure Committee will hold a hearing on ATC privatization*

The chairman of the Senate committee of jurisdiction suggested that his committee may markup a Federal Aviation Administration (FAA) reauthorization next month and the bill could be brought to the floor in July. The current authorization, the “FAA Extension, Safety, and Security Act of 2016” ([P.L. 114-](#)

[190](#)), expires on September 30, 2017. Senate Commerce, Science, and Transportation Committee Chairman John Thune (R-SD) said he would be inclined to markup a bill in June but was equivocal on whether Congress may opt to extend the current authorization. The current authorization expires at the same point that a number of other issues will likely be before the Congress, including FY 2018 appropriations, a debt limit increase, and the expiration of the Children's Health Insurance Program (CHIP) and National Flood Insurance Program. Therefore, it is possible that Congress may opt for an extension.

Next week, the House Transportation and Infrastructure Committee will hold a [hearing](#) that will, in part, pertain to privatizing the FAA's air traffic control operations, a policy Chairman Bill Shuster (R-PA) pushed to include in the last reauthorization. However, Democratic opposition in the Senate will likely make spinning off the FAA's ATC operations very difficult. Thune remarked to a reporter that "[w]e're open to listening, but I don't think we're probably gonna (sic) have a path forward on that in the Senate."

## Upcoming Hearings and Events

### May 16

**Infrastructure Funding:** The Senate Environment and Public Works Committee's Transportation and Infrastructure Subcommittee will hold a [hearing](#) titled "Leveraging Federal Funding; Innovative Solutions for Infrastructure."

### May 17

**Transportation Infrastructure:** The Senate Environment and Public Works Committee will hold a [hearing](#) titled "Improving America's Transportation Infrastructure: The Road Forward."

**Air Traffic Control:** The House Transportation & Infrastructure Committee will hold a [hearing](#) titled "The Need to Reform FAA and Air Traffic Control to Build a 21st Century Aviation System for America."

### May 18

**Emerging Technologies:** The House Appropriations Committee's Transportation, Housing and Urban Development Subcommittee will hold a [hearing](#) titled "Emerging Transportation Technologies."

**Water Quality:** The House Transportation & Infrastructure Committee will hold a [hearing](#) titled "Building a 21st Century Infrastructure for America: Improving Water Quality through Integrated Planning."

*For more information on transportation issues you may [email](#) or call Michael Kans at 202-659-8201.*

## TECHNOLOGY

### Cybersecurity Executive Order Released

#### Key Points:

- Long awaited EO signed without advanced notice
- The EO is basically the same as the last leaked draft

On May 11, President Donald Trump signed "[Presidential Executive Order \(EO\) on Strengthening the Cybersecurity of Federal Networks and Critical Infrastructure](#)," tracks very closely with the previous draft EO with changes mostly on the margins. The White House issued a [fact sheet](#) on the new EO.

The EO requires the following:

- Agency heads "will be held accountable by the President for implementing risk

management measures commensurate with the risk and magnitude of the harm that would result from unauthorized access, use, disclosure, disruption, modification, or destruction of IT and data” and that “cybersecurity risk management processes” are aligned with existing Federal Information Security Management Act (FISMA) standards

- Agencies must immediately implement the National Institute of Standards and Technology’s The Framework for Improving Critical Infrastructure Cybersecurity and prepare and submit a “risk management report” within 90 days to the Office of Management and Budget (OMB) and the Department of Homeland Security (DHS), including “mitigation and acceptance choices” and “[a]ny accepted risk from unmitigated vulnerabilities”
  - OMB and DHS will then assess each agency’s risk management reports to determine whether in the aggregate the federal government’s enterprise cyber risk is being managed and 60 days after agencies submit their reports, OMB shall submit a plan to the President to:
    - protect adequately the executive branch enterprise should the determination identify insufficiencies;
    - establish a regular reassessment and determination process;
    - address unmet budgetary needs necessary to managing risk to the executive branch enterprise resulting from their determination;
    - clarify, reconcile, and reissue as necessary all policies, standards, and guidelines issued by any agency in furtherance of
- Chapter 35, Subchapter II of Title 44, United States Code (i.e. FISMA) and this order; and
- align these policies, standards, and guidelines with the Framework.
  - The Director of the new American Technology Council (ATC) will submit a report to the President within 60 days regarding “transitioning all agencies to....one or more consolidated network architectures; and shared IT services, including email, cloud, and cybersecurity services.”
  - DHS will lead a review by sector-specific agencies to look at the authorities and capabilities each agency has to support owners and operators of critical cyber infrastructure and to help implement risk management measures
  - DHS would report to the President on “existing Federal policies and practices to promote appropriate market transparency of cyber risk management practices by critical infrastructure entities, with a focus on publicly traded critical infrastructure entities”
  - DHS would assess the potential scope and duration of a “significant cyber incident” against the U.S. electric grid, readiness for such an attack, and any gaps in assets or capabilities to mitigate such an attack
  - The Department of State and a number of other agencies would need to report “on the nation’s strategic options for deterring adversaries and better protecting the American people from those who would use networked technology to defeat or undermine this policy”
  - The Secretary of State and others must “report to the President on their

international cybersecurity priorities, including those concerning investigation, attribution, cyber threat information sharing, response, capacity building, and cooperation.”

- The Secretary of Commerce and others must “assess the scope and sufficiency of efforts to educate and train the American cybersecurity workforce of the future” and providing a report “with findings and recommendations regarding how to support the growth and sustainment of the nation's cybersecurity workforce in both the public and private sectors.”
- The Director of National Intelligence would need to “review the workforce development efforts of potential foreign cyber peers in order to help identify foreign workforce development practices likely to affect long-term U.S. cybersecurity competitiveness”
- The Secretary of Defense must “assess the scope and sufficiency of U.S. efforts to ensure U.S. national security-related cyber capability advantage”

## Cyber Threats Hearing

### Key Points:

- *Key Senate committee holds first cyber hearing of this Congress*
- *Members were apprised of newest threats*

On May 10, the Senate Homeland Security and Government Affairs Committee held a [hearing](#) entitled “Cyber Threats Facing America: An Overview of the Cybersecurity Threat Landscape.” Topics discussed in the hearing included, but were not limited to: (1) Role of the National Guard; (2) Cyber Crime; (3) U.S. Cyber Doctrine; (4) Private Sector; (5) Cyber Deterrence; and (6) Cyber Warfare.

Chairman Ron Johnson (R-WI) said cybersecurity is one of the most significant issues facing the U.S., as it affects every sector—from manufacturing to finance to government to energy. He noted that in 2012, General Keith Alexander, then Director of the National Security Agency, stated that the loss of industrial information and intellectual property through cyber espionage constituted the “greatest transfer of wealth in history.” He added espionage is just one of the many cyber threats the U.S. faces. He explained the broad cybersecurity threat landscape can be broken down into four categories: (1) criminal attacks; (2) malicious attacks; (3) industrial espionage; and (4) cyber warfare. He stressed the mission of the Committee is to enhance the economic and national security of the U.S. and promote more efficient, effective, and accountable government.

Ranking Member Claire McCaskill (D-MO) said the Committee has many important cybersecurity threats to address. She said critical cyber vulnerabilities impact the U.S. and countries around the world. She referenced recent instances of election interference believed to be perpetrated by Russia in both the American and French presidential elections. She stated Russia is attempting to undermine faith in western democracies. She said another critical issue to address is the lack of trained and qualified professionals in the cyber field. She expressed concern that the Trump Administration has been slow to nominate officials to serve in important cybersecurity roles at various federal agencies such as the Departments of State, Justice, and Defense.

Symantec Corporation Global Government Affairs and Policy Senior Director Jeffrey E. Greene explained attackers increasingly attempted to hide in plain sight and relied on straightforward approaches, such as “spear-

phishing emails and living off the land by using tools on hand, such as legitimate network administration software and operating system features.” He stated the results of these attacks were significant including: (1) over 1.1 billion identities exposed; (2) power outages in the Ukraine; (3) over \$800 million stolen through Business E-mail Compromise (BEC) scams over just a six month period; (4) \$81 million stolen in one bank heist alone; (5) a tripling of the average ransomware demand; and (6) average time-to-attack for a newly connected IOT device down to two minutes.

White & Case LLP Global Chair of Data, Privacy, and Cyber Security Steven Chabinsky (testifying in his personal capacity) observed the U.S. faces a wide array of adversaries and threats in cyber space including: (1) criminals seeking financial gain; (2) malicious actors not seeking financial gain; (3) state-sponsored industrial espionage; and (4) cyber warfare.

### Upcoming Hearings and Events

#### May 17

***OPEN Government Data Act:*** The Senate Homeland Security & Governmental Affairs Committee will hold a [markup](#) of the “Open, Public, Electronic, and Necessary (OPEN) Government Data Act” (S. 760).

*For more information on technology issues you may [email](#) or call Michael Kans at 202-659-8201. Alex Hopkins contributed to this section.*

*This Week in Congress was written by Laura Simmons.*