

May 31, 2019

Washington Update

This Week in Congress

House – The House met in pro forma session on Tuesday and Thursday. Unanimous consent motions to adopt [H.R. 2157](#), which would provide \$19.1 billion for supplemental disaster relief, were blocked by Representatives Thomas Massie (R-KY) and John Rose (R-TN). The House passed [S. 1693](#), which extends the authorization for the National Flood Insurance Program (NFIP) through June 14, 2019.

Senate – The Senate was in recess.

Next Week in Congress

House – The House is scheduled to vote on H.R. 2157 on June 3. The House is also expected to consider [H.R. 6](#), “**The American Dream and Promise Act.**”

Senate – The Senate is expected to consider [S. 1332](#), which would set forth the congressional budget levels for Fiscal Year (FY) 2020. The Senate is also expected to consider the nomination of Andrew Saul to be Commissioner of Social Security.

TAX

House Democrats Appear Ready to Propose Tax Extender Legislation with Estate Tax Offset

Key Points:

- *House Ways and Means Democrats are reportedly considering a plan that would sunset TCJA estate tax relief two years earlier in order to retroactively renew tax extenders through 2019.*
- *The proposal would also create a two-year extension of the earned income credit for childless workers between the ages of 19 and 25.*

Democratic members on the House Ways and Means Committee are reportedly considering a plan that would retroactively renew tax extenders through 2019 and pay for it by

rolling back estate tax relief. The extender proposal is similar to the Senate’s Tax Extender and Disaster Relief Act of 2019, though the Senate bill does not have offsets and includes provisions that are not strictly extenders like the Black Lung Trust excise tax. Ways and Means Chairman Richard Neal (D-MA) has expressed interest in pairing an extenders package with an expansion of the earned income tax credit, and recently stated that Senate Finance Chairman Chuck Grassley (R-IA) is open to that idea.

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The House proposal raises an estimated \$25 billion by ending the Tax Cuts and Jobs Act's (TCJA) increased estate tax exemption two years early. The total cost of renewing the narrow extenders list (not including so-called "health" extenders) is apparently set at \$17 billion. Democrats are also proposing a two-year extension of the earned income credit to childless workers between the ages of 19 and 25 at a cost of \$25 billion.

The Senate is unlikely to accept any offset, and the estate tax offset will see opposition from Senate Republicans. It is possible the Senate responds with a package that is not offset.

IRS Cryptocurrency Guidance on the Horizon

Key Point:

- *IRS Commissioner Rettig said the agency is planning on releasing guidance on virtual currency tax issues within the next 30 days.*

Internal Revenue Service (IRS) Commissioner Charles Rettig said the IRS could release guidance on virtual currency tax issues within the next 30 days. He explained that the guidance will include both a revenue ruling and a revenue procedure. "I think it's going to be helpful for people who might be guessing at ways that digital assets might be nontaxable," Rettig commented. The Commissioner also said that an updated tax gap estimate for 2011 to 2013 would be released this summer.

Upcoming Hearings and Meetings

June 4

Members' Day: On June 4, the House Ways and Means Committee will hold a Members'

Day Hearing. The hearing will take place at 10:00 AM in 1100 Longworth House Office Building.

June 5

Foreign Threats to Taxpayer-Funded Research: On June 5, the Senate Finance Committee will hold a hearing entitled "Foreign Threats to Taxpayer-Funded Research: Oversight Opportunities and Policy Solutions." The hearing will take place at 9:45 AM in 215 Dirksen Senate Office Building.

June 19

Impact of Tax Policies: On June 19, the House Financial Services Committee's National Security, International Development and Monetary Policy Subcommittee will hold a hearing entitled "Slowing Economic Growth: The Impact of Recent Trade and Tax Policies on the U.S. Economy." The hearing will take place at 10:00 AM in 2128 Rayburn House Office Building.

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

FINANCIAL SERVICES

House Passes Two Week NFIP Extension

Key Points:

- *The House passed legislation to extend the authorization for the NFIP through June 14.*
- *The House failed to pass H.R. 2157, which would have extended the authorization of the program through September 31. The House is expected to vote on H.R. 2157 next week.*

On May 30, the House passed the National Flood Insurance Program Extension Act ([S. 1693](#)), which would extend the authorization for the National Flood Insurance Program (NFIP) through June 14, 2019. The program had been set to expire on May 31. S. 1693 passed the Senate by voice vote on May 23.

On May 28 and May 30, the House failed to pass [H.R. 2157](#), which would provide \$19.1 billion for supplemental disaster relief. Unanimous consent motions to pass the bill were blocked by Representatives Thomas Massie (R-KY) and John Rose (R-TN). The bill included an extension of the NFIP for six months, to September 31, 2019. The House is expected to pass H.R. 2157 with bipartisan support when it returns next week. The bill passed the Senate by a vote of 85-8.

FSOC Holds Closed Meeting on SIFI Designation Process and Equity Market Structure

Key Point:

- *The Council received presentations on the SIFI designation process, leveraged lending, and equity market structure.*

On May 30, the Financial Stability Oversight Council (FSOC) met in a closed executive session. As noted in a [readout](#) released by the Treasury Department, the Council received presentations on three topics: (1) presentation from Treasury staff on the public comments submitted on the Council's proposed interpretive guidance on nonbank financial company designations; (2) an update regarding U.S. nonfinancial corporate credit and leveraged lending; and (3) a presentation from Securities and Exchange Commission (SEC) staff on several topics related to equity market structure. The presentation from SEC staff addressed "market volatility, securities exchanges' 'maker-taker' pricing model, and market data and access."

Bank Regulators Adopt Final Liquidity Coverage Ratio Rule

Key Point:

- *The OCC, Federal Reserve, and FDIC adopted a final rule regarding the treatment of certain municipal obligations as high-quality liquid assets.*

On May 30, the Office of the Comptroller of the Currency (OCC), the Federal Reserve, and the Federal Deposit Insurance Corporation (FDIC) issued a joint [final rule](#) entitled "Liquidity Coverage Ratio Rule: Treatment of Certain Municipal Obligations as High-Quality Liquid Assets." The regulators jointly adopted as a final rule, the August 31, 2018 interim final rule, "which amended the agencies' liquidity coverage ratio (LCR) rule to treat liquid and readily-marketable, investment grade municipal obligations as high-quality liquid assets." The rule amending the treatment of certain municipal obligations was required by Section 403 of the Economic Growth, Regulatory

Relief, and Consumer Protection Act, which was enacted last year.

The final rule will be effective 30 days after publication in the Federal Register.

Upcoming Hearings and Meetings

June 3

Financial Services Appropriations: The House Appropriations Committee's Subcommittee on Financial Services and General Government will hold a markup of its Fiscal Year (FY) 2020 appropriations bill.

June 4

Export-Import Bank: The House Financial Services Committee will hold a hearing entitled "Promoting American Jobs: Reauthorization of the U.S. Export-Import Bank."

Leveraged Lending: The House Financial Services Committee's Subcommittee on Consumer Protection and Financial Institutions will hold a hearing entitled "Emerging Threats to Stability: Considering the Systemic Risk of Leveraged Lending."

China: The Senate Banking Committee will hold a hearing entitled "Confronting Threats From China: Assessing Controls on Technology and Investment, and Measures to Combat Opioid Trafficking." The witnesses at the hearing will be the Honorable Kevin Wolf, former Assistant Secretary of Commerce for Export Administration in the Bureau of Industry and Security (BIS), U.S. Department of Commerce; Mr. Scott Kennedy, Senior Adviser, Freeman Chair in China Studies and Director, Project on Chinese Business and

Political Economy, Center for Strategic & International Studies; and Mr. Richard Nephew, former Principal Deputy Coordinator for Sanctions Policy, U.S. Department of State.

June 5

Regulation Best Interest: The Securities and Exchange Commission (SEC) will hold an open meeting to consider four items: (1) Final Rule: Regulation Best Interest — Standard of Conduct for Broker-Dealers; (2) Final Rule: Form CRS Relationship Summary; (3) Interpretation: Standard of Conduct for Investment Advisers; and (4) Interpretation: "Solely Incidental".

Nomination Hearing: The Senate Banking Committee will hold a hearing to consider the nominations of: Mr. Thomas Peter Feddo to be an Assistant Secretary of the Treasury for Investment Security; Ms. Nazak Nikakhtar to be Under Secretary of Commerce for Industry and Security; Mr. Ian Paul Steff to be Assistant Secretary of Commerce and Director General of the United States and Foreign Commercial Service; Ms. Michelle Bowman to be a Member of the Board of Governors of the Federal Reserve System; Mr. Paul Shmotolokha to be First Vice President of the Export-Import Bank of the United States; and Ms. Allison Herren Lee to be a Member of the Securities and Exchange Commission.

June 5-6

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

June 11

FIMSAC: The Securities and Exchange Commission (SEC) will hold a meeting of its Fixed Income Market Structure Advisory Committee (FIMSAC). The Advisory Committee will consider a recommendation from the Technology and Electronic Trading Subcommittee.

Student Lending: The House Financial Services Committee's Subcommittee on Oversight and Investigations will hold a hearing entitled "An Examination of State Efforts to Oversee the \$1.5 Trillion Student Loan Servicing Market."

June 11-12

Markup: The House Financial Services Committee will hold a markup of financial services legislation.

June 12

CFTC Advisory Committee: The Commodity Futures Trading Commission's Market Risk Advisory Committee (MRAC) will hold a public meeting to discuss climate-related financial risks. Panels discussions will be on the following topics: "(1) the impact of climate change on the future stability of the global financial system; (2) current domestic and international initiatives addressing financial risks related to climate change; (3) financial industry approaches to the management and mitigation of such risks, including key risk management, governance, and disclosure considerations; and (4) the challenges ahead for regulators and market participants in the derivatives industry. The MRAC will also receive a status report from the Interest Rate

Benchmark Reform Subcommittee, and "a presentation on European Market Infrastructure Regulation (EMIR) 2.2, central counterparty stress testing, and Brexit from Steven Maijoor, Chair, European Securities and Markets Authority (ESMA)."

June 19

Tax and Trade Policy: The House Financial Services Committee's National Security, International Development and Monetary Policy will hold a hearing entitled "Slowing Economic Growth: The Impact of Recent Trade and Tax Policies on the U.S. Economy."

Securities Enforcement: The House Financial Services Committee's Subcommittee on Investor Protection, Entrepreneurship and Capital Markets will hold a hearing entitled "Putting Investors First: Examining Proposals to Strengthen Enforcement Against Securities Law Violators."

June 20

Diversity: The House Financial Services Committee will hold a hearing entitled "Diversity in the Boardroom: Examining Proposals to Increase the Diversity of America's Boards."

Appraisals: The House Financial Services Committee's Subcommittee on Housing, Community Development and Insurance will hold a hearing entitled "What's Your Home Worth? A Review of the Appraisal Industry."

June 25

Debt Collection: The House Financial Services Committee will hold a hearing entitled “Examining Legislation to Protect Consumers and Small Business Owners from Abusive Debt Collection Practices.”

FinTech: The House Financial Services Committee’s Task Force on Financial Technology will hold a hearing entitled “Overseeing the Fintech Revolution: Domestic and International Perspectives on Fintech Regulation.”

June 26

Diversity: The House Financial Services Committee’s Subcommittee on Diversity and Inclusion will hold a hearing entitled “Diverse Asset Managers: Challenges, Solutions and Opportunities for Inclusion.”

Artificial Intelligence: The House Financial Services Committee’s Task Force on Artificial Intelligence will hold a hearing entitled “Perspectives on Artificial Intelligence: Where We Are and the Next Frontier in Financial Services.”

For more information about financial services issues you may email [Joel Oswald](#) or [Alex Barcham](#).

HEALTH**Upcoming Hearings and Meetings****June 4**

Health Policy: The Washington Post will host a discussion on “America’s Health Future.”

Patient Care: Health Affairs will hold a discussion on “Community Care For High-Need Patients.”

Health Policy: The House Energy and Commerce Committee will hold a hearing on “Investing in America’s Health Care.”

FDA: The House Appropriations Committee will hold a markup of the FY2020 Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Bill.

Ebola: The House Foreign Affairs Committee will hold a hearing on “Eradicating Ebola: Building on Lessons Learned & Medical Advancements.”

June 5

Research: The Senate Finance Committee will hold a hearing on “Foreign Threats to Taxpayer – Funded Research: Oversight Opportunities and Policy Solutions.”

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

TRADE

Update on USMCA in Canada and Mexico

Key Points:

- *Canada tables USMCA implementation act, in case the U.S. changes details in the agreement.*
- *Mexico sends USMCA bill to Senate for approval.*
- *New Tariffs placed on Mexico to encourage action on illegal immigration.*

Canada

Canadian Prime Minister Justin Trudeau introduced implementing legislation for the U.S. Mexico-Canada Agreement (USMCA) to the House of Commons on Wednesday, sparking reactions from Conservative and New Democratic party leaders who questioned whether the deal was adequate as written, with some lawmakers pushing to slow the deal's ratification. The "Canada United States Mexico Agreement Implementation Act" was tabled on Wednesday afternoon after the Parliament passed an initial "ways and means" motion a day before. According to the text of that motion, the implementing legislation is reportedly set to allow the cabinet to make changes after the bill passes. Prime Minister Trudeau claims the motion is an acknowledgement of the complexity of the American and Mexican legislative processes. He said, "[p]assing it in Canada doesn't mean anything if it's not also ratified in the United States and in Mexico and that's why we are making sure we are aligned and supportive of the processes that are slightly more difficult on their ends." However, New Democratic Party leader Jagmeet Singh suggested the agreement should not be rushed, and that Canada should

support U.S. Congressional efforts to improve the deal.

Mexico

On Thursday, Mexico's government sent a USMCA bill to its Senate for approval. At his morning press conference, Mexican President López Obrador said the deal had "majority support" in Mexico and predicted that the three parties to it would ratify it "without difficulty and soon."

Meanwhile, on Thursday evening, President Trump announced, via a tweet, that the US would begin imposing 5% tariffs on all products from Mexico beginning June 10, as a result of migration through Mexico. According to the tweet, the tariffs would increase as time goes on, until the "illegal migration" ceases.

The legal basis for the tariffs and possible repercussions are not yet clear. The White House issued a [release](#) with additional rationale, citing the International Emergency Economic Powers Act as the authority under which the President is acting. The schedule for proposed tariffs includes:

- a 5 percent Tariff on all goods imported from Mexico on June 10, if satisfactory action is not taken by Mexico;
- tariffs would be raised to 10 percent on July 1, 2019;
- raised to 15 percent on August 1, 2019;
- raised to 20 percent on September 1, 2019;
- and raised to 25 percent on October 1, 2019.
- "Tariffs will permanently remain at the 25 percent level unless and until Mexico substantially stops the illegal inflow of aliens coming through its territory."

Trump Pushing USMCA, Sends SAA to Congress

Key Points:

- *White House is using SAA and TPA rules to encourage Congress to discuss and potentially act on USMCA before August recess.*
- *House Democrats labelled this action “not positive” and see the move as a way of pressuring them during ongoing negotiations between Democrats and the USTR.*

White House Sends Up Draft SAA to Congress

This afternoon the USTR sent the Congress a draft Statement of Administrative Action (SAA), which under the Trade Promotion Authority (TPA) process must be sent at least 30 days before the final implementing legislation can be sent.

Typically during that 30 or more days after the draft SAA is sent, the House Ways and Means and Senate Finance Committee would hold “mock” markups of the language suggesting changes these committees would like to see included. Those changes might be ultimately negotiated with the Administration and may (not must) be incorporated into the final version of the SAA and legislative language sent later under the TPA process.

Once the final version of the implementation package (final SAA, legislative language and final binding text of the agreement) is sent to Congress by the Administration, the legislative language cannot be amended in the process under TPA rules.

While the draft SAA must be sent at least 30 days before, there is no deadline for the final

language to be sent, it could be 30 days, 60 days or never (as with TPP, the final SAA language, and legislative text, of which was never formally sent up the Congress).

The Trump Administration [cover letters](#) with the SAA suggest there is ample time for further discussion on issues around enforcement of labor and environment, and indicated there are “placeholders flagging areas we expect will be the focus of those conversations.” The cover letter suggests taking this action at this time allows time for Congress to have those conversations and consider the USMCA before the August recess “if the leadership deems that appropriate.”

Reaction – “Not Positive”

The important reaction in this process is from House Democrats, whose support for moving USMCA is crucial. Though TPA has rules that speed consideration, House Democrats under then (and current) Speaker Pelosi demonstrated they can stop the process in 2008 when they changed House rules to stop the legislative clock on the U.S.-Colombia Free Trade Agreement which was submitted by President Bush.

Speaker Pelosi (D-CA) labeled taking the action today to send up the draft SAA before House Democrats have finished working with the USTR as “not positive,” and that the action “indicates a lack of knowledge on the part of the Administration on the policy and process to pass a trade agreement.”

U.S. and Japan Trade Talks Accelerate

Key Points:

- *The U.S. and Japan agreed to accelerate trade talks.*
- *A deal could be reached by the end of August, based on President Trump's goal; though that timeline may be too optimistic.*

After meetings with Japanese Prime Minister Shinzo Abe, President Trump on Monday predicted the U.S. and Japan would announce an agreement on trade issues in August. President Trump, before official talks with Abe about a range of issues, said “[t]rade-wise, I think we will be announcing some things, probably in August, that will be very good for both countries. We have to do a little catching up with Japan because they’ve been doing much more business with us, and we’d like to do a little bit more business in the reverse. The balance will — we’ll get the balance of trade, I think, straightened out rapidly.” Prime Minister Abe, however, declined to confirm a time frame, saying only that the two leaders had agreed to “achieve [an] early outcome based upon the trustful relationship between our two nations. We shall accelerate the pace of discussion. We agreed on that.”

President Trump will return to Japan next month for the G20 summit in Osaka, and Japanese parliamentary elections will be held in July. If President Trump hopes to strike a deal before the elections he will likely need to give Prime Minister Abe a win in terms of trade concessions.

U.S. China Trade War Developments

Key Points:

- *China targets rare earth minerals for tariff retaliation.*
- *China created a list of “unreliable entities” as possible target for retaliatory actions.*
- *U.S. industries are feeling the impact from the trade war.*
- *Tariff hearings held by the USTR on List 4 of Section 301 tariffs could take up to two weeks.*

Earlier this week Chinese government officials released a statement aimed at President Trump and U.S. trade negotiators that it too has power over global supply chains. U.S. officials assume this is a thinly veiled threat that China could retaliate against U.S. tariffs with its own export control on rare earth minerals that are crucial to high-tech manufacturing. This threat to curb exports presents a real threat to the U.S. economy because about 35 percent of rare earth global reserves are in China, the most in the world, and the country is a mining machine, producing 120,000 metric tons or 70 percent of total rare earths in 2018, according to the United States Geological Survey (USGS). U.S. consumption of rare earth compounds and metals relies heavily on imports, which rose to \$160 million in 2018, according to USGS. Eighty percent were from China. Although other countries supply to the U.S. including Estonia, France, and Japan, much of their materials were derived from mineral concentrates and chemical substances produced in China. Given U.S. dependence on Chinese supply, the threat of a restriction could hurt many industries including high-tech devices, automobiles, clean energy, and defense.

Today the Chinese Ministry of Commerce announced it was assembling a “list of unreliable entities” and that in forthcoming announcements it would share specific measures that would be taken against those entities. Describing the basis for the designation included language such as entities that “impose blockades, outages or other discriminatory measures,” or “cause substantial damage to Chinese enterprises or related industries,” or “pose a threat or potential threat to China’s national security.”

President Trump has openly advocated for companies to leave China and shift production to other countries such as Vietnam or the U.S. Retail Industry Leaders Association Vice President for International Trade Hun Quach argued that if companies move out of China they will be immediately replaced, and it will be exceedingly difficult to reenter China and regain their foothold in the market.

Wednesday, an industry official announced that upcoming hearings on President Donald Trump's plan to impose a 25 percent tariff on the remaining \$300 billion worth of Chinese goods could take up to two weeks. It is possible that as many as 500 to 600 witnesses could ask to testify at the hearings.

EU Readies Itself for Boeing-Airbus Tariffs

Key Point:

- *The U.S. is likely to impose tariffs on as much as \$21 billion worth of European goods in July as a result of Boeing-Airbus trade case.*

European Commissioner for Trade Cecilia Malmström warned the EU’s trade ministers at a meeting on Monday that they need to ready themselves for President Trump to hit billions

of dollars’ worth of European goods with tariffs, ramping up a decade’s long dispute over unwarranted subsidies for Airbus.

This declaration comes after U.S. officials rejected attempts to negotiate a deal on aviation subsidies. Although the World Trade Organization (WTO) ruled that both Airbus and its American competitor Boeing benefited from illegal state aid, the U.S. does not fully accept the ruling. Trump Administration officials said last month the U.S. wants to levy retaliatory tariffs on up to \$21 billion of European products, a decision and amount that still needs to be confirmed by a WTO arbitrator. The verdict is expected to come in July. Subsequent tariffs on U.S. products from the EU, as a result of the subsidies for Boeing, could come in the following months.

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

This Week in Congress was written by Alex Barcham.