

June 8, 2018

## Washington Update

### This Week in Congress

- **House** – The House passed the “Free Veterans From Fees Act” (H.R. 3997); the “Route 66 National Historic Trail Designation Act” (H.R. 801); the “North County National Scenic Trail Route Adjustment Act” (H.R. 1026); the “Camp Nelson Heritage National Monument Act (H.R. 5655); the “Susquehanna national Heritage Area Act” (H.R. 2991); the “Northern Mariana Islands U.S. Workforce Act of 2018” (H.R. 5956); the “Water Resources Development Act of 2018” (H.R. 8); “Spending Cuts to Expired and Unnecessary Programs Act” (H.R. 3); and a bill “To direct the Secretary of the Interior to conduct a special resource study to determine the suitability and feasibility of establishing the birthplace of James Weldon Johnson in Jacksonville, Florida, as a unit of the National Park System” (H.R. 5005).
- **Senate** – The Senate confirmed **Robert Earl Wier** to be United States District Judge for the Eastern District of Kentucky; **Fernando Rodriguez, Jr.** to be United States District judge for the Southern District of Texas; **Annemarie Carney Axon** to be United States District judge for the Northern District of Alabama; and **Kenneth L. Marcus** to be Assistant Secretary for Civil Rights, Department of Education.

### Next Week in Congress

- **House** – The House may consider the “Securing the International Mail Against Opioids Act of 2018” (H.R. 5788); the “THRIVE Act” (H.R. 5735); and the “Stop Importation and Trafficking of Synthetic Analogues Act” (H.R. 2851).
- **Senate** – The Senate may consider the “National Defense Authorization Act” (H.R. 5515).

### TAX

*House Ways and Means Committee  
Chairman Kevin Brady Discusses Potential  
Healthcare Tax Package*

#### *Key Points:*

- *Chairman Kevin Brady (R-TX) indicated that House Republicans are working on a healthcare tax package that will work on*

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- *making healthcare savings accounts more user-friendly*
- *The Health Subcommittee held a hearing on expanding the use of the tax-preferred savings accounts*

On Wednesday, House Ways and Means Committee Chairman Kevin Brady (R-TX) informed reporters that Republicans are working on a “healthcare tax package” that will aim to improve health savings accounts (HSAs) and make them “more user –friendly.” Prior to Brady’s comments, the Ways and Means Subcommittee on Health held a hearing on expanding the use of the tax-preferred savings accounts. Throughout the hearing, both Republicans and Democrats generally agreed on the need to make HSAs more accessible. One witness—Sherry Glied of the New York University Graduate School of Public Service—stated in her opening testimony that consumer-directed health plans (CDHP) offer minimal help towards lower-income families and their ability to pay healthcare costs.

Also discussed in the hearing was a discussion on the Bipartisan HSA Improvement Act of 2018 (H.R. 5138) that would expand the various services and medications that can be paid for by HSA funds. There was no explanation for how the expansion of HSAs would be paid for.

### ***Senate Finance Committee Announces Hearing on Tax Court Nominees***

#### *Key Point:*

- *Senate Finance Committee will hold a June 12 hearing that will include two of the five nominees for the U.S. Tax Court—Elizabeth Ann Copeland and Patrick Urda*

The Senate Finance Committee announced on Tuesday that the committee will hold a June 12 hearing on five nominations, including two of

the five nominees to the Tax Court. The two nominations being considered by the committee are Elizabeth Ann Copeland of Clark Hill Strasburger, and Patrick J. Urda, an attorney in the appellate section of the Justice Department Tax Division. Should the nominees be confirmed, they would both be subject to 15-year terms on the Tax Court. Copeland previously came before the Senate Finance Committee in April 2016 as she was nominated for the same position by President Obama. While she was approved by the committee, there was a lack of vote by the full Senate at the end of 2016.

The three other Tax Court nominations that are currently pending are: Courtney Dunbar Jones, and Emin Toro, and the nomination of Judge Mark Holmes to a second term. Also noteworthy, the Finance Committee has yet to hold a hearing on the nominations of Charles Rettig as IRS Commissioner or Michael Desmond as IRS chief counsel.

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

## **FINANCIAL SERVICES**

### ***Senate Appropriations Panel Holds Hearing on the SEC and CFTC Budget Requests***

#### *Key Points:*

- *The Subcommittee received testimony from SEC Chairman Jay Clayton and CFTC Chairman J. Christopher Giancarlo.*
- *The hearing included discussion of the Volcker Rule, standards of conduct for investment professionals, cybersecurity, and international regulation.*

On June 5, the Senate Appropriations Committee’s Subcommittee on Financial

Services and General Government held a [hearing](#) to review the Fiscal Year (FY) 2019 funding requests and budget justifications for the U.S. Commodity Futures Trading Commission (CFTC) and the U.S. Securities and Exchange Commission (SEC). Chairman James Lankford (R-OK) said the SEC has requested \$1.658 billion for FY2019, which is a \$6 million increase over the FY2018 enacted amount. He noted that the SEC is funded through fees, so they do not require appropriations, but these fees are passed on to investors. He said the hearing was timely as he is working on reforms to facilitate capital formation, expressing interest in Clayton's views on these proposals. Lankford said the CFTC has requested \$281.5 million for FY2019, which is a \$32.4 million increase over the FY2018 enacted amount.

SEC Chairman Jay Clayton said the FY2018 funding level will allow the SEC to invest in improvements to its information technology (IT) and cybersecurity. He said the FY2019 request will enable the SEC to lift its hiring freeze and support 100 new hires. He stated that the budget request is deficit neutral and would be offset by transaction fees. Clayton said the budget request is focused on five key components: (1) information technology and cybersecurity; (2) capital formation; (3) protecting Main Street investors; (4) enforcement, compliance, and inspections; and (5) trading and markets. Clayton said the SEC is working on a rulemaking package to reduce retail investor confusion while ensuring that investors remain protected, adding that the SEC will work towards a final rule which aligns investor expectations with legal standards and provides Main Street investors with access to a variety of investment services at a reasonable cost.

CFTC Chairman J. Christopher Giancarlo said Americans rely on derivatives markets, noting

the importance of these markets to farmers and ranchers. He said more than 90 percent of Fortune 500 companies use derivatives to manage their risks. He said the U.S. is the only major economy with a regulatory agency solely dedicated to the derivatives market. Giancarlo suggested that the opening up of China's future markets to international participants is key to China's strategy to expand its influence over the pricing of key commodities. He stressed the need to ensure that U.S. markets are unrivaled in their openness, orderliness and liquidity. He emphasized the need to ensure the CFTC has adequate resources to oversee the market, stating that full funding of the CFTC's budget request would meet this need. He said the budget request is fiscally conservative and mindful of waste.

Senator John Kennedy (R-LA) asked questioned whether changes to the Volcker Rule are being made too quickly. Giancarlo said there was real strain last week when Italian bonds went into a "mini crisis." He suggested that there is not an abundance of high level market making, which he attributed to the Volcker Rule. He said the changes proposed will remove some of the bias against market marketing. He noted Paul Volcker has said it is hard to delineate market making from proprietary trading. He said the proposal would remove the presumption that activity is proprietary trading unless proven otherwise. He emphasized that the proposal is not a roll back of post-crisis reform. Clayton added that the proposal moves away from the current one-size-fits-all approach which places undue burdens on small and mid-size firms.

Chairman James Lankford (D-OK) asked about the SEC's proposed rules relating to standards of conduct for investment professionals, noting this is a big issue for small savers. Clayton explained that the investment professional, whether a broker-dealer or an

investment adviser, cannot put their needs before the investor. He explained both models have served the markets well but they can be improved and clarified. He stated they want advisers to have discussions with their investors on what their role is and how they will get paid. Lankford asked for a timeline for the proposals. Clayton stated there is a 90 day comment period, during which they are doing investor testing and are holding town halls. He stated they will take at least 90 days but he does not intend to take forever because he suggested this has been discussed long enough.

### ***House Financial Services Committee Approves Capital Formation Legislation***

#### *Key Points:*

- *The House Financial Services Committee approved six financial services bills to promote capital formation, help those impacted by natural disasters, and reform the Federal Insurance Office.*
- *Chairman Jeb Hensarling noted that the House will most likely be putting together a JOBS 3.0 package of bills and some of these bills will be included in that package.*

On June 7, the House Financial Services Committee held a [markup](#) and favorably reported six financial services bills:

- The Federal Insurance Office Reform Act of 2017” ([H.R. 3861](#)), to reform the Federal Insurance Office of the Department of the Treasury. The bill, as amended, was favorably reported by a roll call vote of 36-21.
- The “Reforming Disaster Recovery Act of 2017” ([H.R. 4557](#)), to authorize the Secretary of Housing and Urban Development to provide disaster assistance to States and units of general government under a community development block grant disaster recovery program. The bill, as

amended, was favorably reported by a roll call vote of 53-3.

- The “Small Company Disclosure Simplification Act of 2018” ([H.R. 5054](#)), To provide an exemption for emerging growth companies and other smaller companies from the requirements to use Extensible Business Reporting Language (XBRL) for financial statements and other periodic reporting. The bill, as amended, was favorably reported by a roll call vote of 32-23.
- [H.R. 5756](#), To require the Securities and Exchange Commission to adjust certain resubmission thresholds for shareholder proposals. The bill was favorably reported by a roll call vote of 34-22.
- The “Cooperate with Law Enforcement Agencies and Watch Act of 2018” ([H.R. 5783](#)), to provide a safe harbor for financial institutions that maintain a customer account at the request of a Federal or State law enforcement agency. The bill was favorably reported by a roll call vote of 55-0.
- The “Main Street Growth Act” ([H.R. 5877](#)), to amend the Securities Exchange Act of 1934 to allow for the registration of venture exchanges. The bill, as amended, was favorably reported by a roll call vote of 56-0.

Chairman Jeb Hensarling (R-TX), in a [statement](#), suggested the work of the Committee has helped play a role in the economic success. Hensarling noted the passage of the pro-growth banking bill, the Economic Growth, Regulatory Relief, and Consumer Protection Act ([S.2155](#)), explaining that it was a needed community bank bill but that it did not go far enough. He stated in order to sustain 3 percent growth they must have policies that encourage

more capital formation. Hensarling stated that the House will most likely be putting together a “JOBS 3.0” and some of these bills are likely to be included in that package. Ranking Member Maxine Waters (D-CA), in a [statement](#), noted this is likely the first of several markups this Committee will hold this month. Waters stated this Committee tends to focus on helping Wall Street while it ignores housing challenges, so she called on the Committee to consider some of the Democratic bills to improve housing in the country.

### ***House Financial Services Discusses Transparency and Accountability at the CFPB***

#### *Key Point:*

- *Chairman Blaine Luetkemeyer (R-MO) suggested the CFPB failed its mission and has taken it upon itself to make law through guidance and regulate through inspections.*

On June 6, the House Financial Services Committee’s Subcommittee on Financial Institutions and Consumer Credit held a [hearing](#) entitled, “Improving Transparency and Accountability at the Bureau of Consumer Financial Protection.” Subcommittee Chairman Blaine Luetkemeyer (R-MO) stated the mission of the Bureau of Consumer Financial Protection (CFPB or Bureau) is to regulate the offer and provision of consumer financial products and empower consumers to make better-informed decisions. He suggested the CFPB has failed in this mission and has taken it upon itself to make law through guidance and regulate through inspections. Luetkemeyer noted Acting Director Mick Mulvaney sent a clear message that Congress must act to establish clear accountability such as subjecting the Bureau to appropriations, creating a five-member commission, and subjecting the Director to Presidential oversight. Ranking Member William Lacy Clay (D-MO) stated for

six years American consumers have had a Bureau that won significant victories in the name of financial justice. He stated 29 million consumers received nearly \$12 billion back for wrongdoing.

Several Members expressed concern with the data collection practices of the CFPB. They noted that Acting Director Mulvaney had suspended the data collection but recently announced that the collection of some information will resume. Kate Prochaska (U.S. Chamber Center for Capital Markets Competitiveness) stated that the Chamber has the same concerns, noting that the federal government is not immune to data breaches. She explained that nowhere in the statute does it say that the complaint data needs to be made public. When asked whether the CFPB should be put on appropriations, Richard Hunt (Consumer Bankers Association) noted that the Director of the CFPB can make any budgetary requests they want, which should be concerning. Prochaska stated the fact that there is no Congressional oversight of CFPB funding means that the person in power can defund the agency. Representative Dennis Ross (R-FL) noted concern over the “pendulum swings” that occur between one Director and the next. Hunt noted the SEC, CFTC, and FDIC are all five person commissions.

### ***SEC Approves Volcker Rule Proposal, e-Delivery Final Rule***

#### *Key Points:*

- *The SEC voted to propose a joint rulemaking proposal to amend the Volcker Rule.*
- *The SEC also voted to approve a new rule related to delivery of shareholder reports, in addition the SEC issued a request for comment on additional ways to modernize fund information and a request for comment on the framework for certain processing fees that*



*broker-dealers and other intermediaries charge for delivering fund shareholder reports.*

At a June 5, [open meeting](#) the Securities and Exchange Commission (SEC) voted 3 to 2 to propose amendments to the Volcker rule, with Commissioners Kara Stein and Robert Jackson voting against the proposal. Commissioner Stein expressed concern that the proposal: is “opening the door” for banks to again engage in risky trading strategies by expanding the hedging-related exemptions; makes it easier for banks to classify a trade as a hedge; and no longer requires the banks to show that the hedging activity “demonstrably reduces or otherwise significantly mitigates” the risk..

The Commission jointly acted along with the other four federal financial regulatory agencies (the Office of the Comptroller of the Currency, the Federal Reserve Board, the Federal Deposit Insurance Corporation, and the Commodity Futures Trading Commission) to [propose the Volcker Rule amendments](#).

On Monday June 4, the SEC [approved](#) three related items that were on the initial open meeting agenda. In the first release, the SEC adopted new rule 30e-3 that creates an optional “notice and access” method for the delivery of shareholder reports. Under the rule a fund can deliver its shareholder reports electronically by making them publicly accessible on a website and send investors a notice of the report’s availability by mail. Funds are required to send a free paper copy of these materials upon request. Funds will be permitted to rely on the new rule as early as January 1, 2021. The SEC also issued a request for comment on additional ways to modernize fund information, and a request for comment on the framework for certain processing fees that broker-dealers and other intermediaries charge funds for

delivering fund shareholder reports and other materials to investors.

### ***CFTC Approves Volcker Rule Proposal and Swap Data Access***

#### *Key Point:*

- *The CFTC approved a final rule on Indemnification, a proposed rule to amend the Volcker Rule, and a proposed rule related to the De Minimis Exception for Swap Dealer Registration.*

On June 4, the Commodity Futures Trading Commission (CFTC) at its [open meeting](#) voted: unanimously to approve a Final Rule: Indemnification (Amendments to the Swap Data Access Provisions of Part 49 and Certain Other Matters); 2 to 1 to approve a joint proposed amendments to the Volcker Rule; and 2 to 1 to approve a Proposed Rule: De Minimis Exception (Amendments to Swap Dealer Registration De Minimis Exception). Commissioner Rostin Behnam voted against the Volcker Rule proposal and the De Minimis Exception.

Chairman J. Christopher Giancarlo, in a [statement](#), explained that Congress included in the Dodd-Frank Act (DFA) a requirement that foreign and domestic regulators indemnify Swap Data Repositories (SDRs) and the Commission for any expenses arising from litigation relating to the information provided by SDRs. He noted foreign and domestic regulators were unable or unwilling to provide this indemnification hindering the ability to share swaps data. He expressed his pleasure that Congress has since amended the DFA to take out the indemnification requirement and the CFTC is changing their regulations accordingly. Related to the proposed Volcker Rule amendments, Giancarlo explained the current rule: causes confusion as to what is acceptable activity; presumes unacceptable

activity in various cases; and imposes highly intensive compliance burdens in all cases unfairly benefitting large Wall Street banks over smaller regional ones. He explained the proposal seeks to simplify and tailor the Volcker Rule to increase efficiency, right-size firms' compliance obligations, and allow banking entities – especially smaller ones - to more efficiently provide services to clients. Finally, related to the proposal for the swap dealer de minimis definition, Giancarlo explained the data clearly shows that a drop in the de minimis definition from \$8 billion to \$3 billion would not have an appreciable impact on coverage of the marketplace. In fact, he stated any impact would be less than one percent. On the other hand, Giancarlo suggested the drop in the threshold would pose unnecessary burdens for non-financial companies that engage in relatively small levels of swap dealing to manage business risk for themselves and their customers.

## UPCOMING EVENTS

### June 12

***Federal Reserve Nominations Vote:*** The Senate Banking Committee will hold an executive session to vote on the following nominations: The Honorable Richard Clarida, to be a Member and Vice Chairman of the Board of Governors of the Federal Reserve System; and Ms. Michelle Bowman, to be a Member of the Board of Governors of the Federal Reserve System.

***Comptroller of the Currency:*** The Senate Banking Committee will hold a hearing to receive an update from Comptroller of the Currency Joseph Otting.

### June 13

***Comptroller of the Currency:*** The House Financial Services Committee will hold a

hearing entitled “Financial Industry Regulation: the Office of the Comptroller of the Currency.” Comptroller of the Currency Joseph Otting will testify at the hearing.

***Securities Enforcement:*** The House Financial Services Committee’s Subcommittee on Capital Markets, Securities and Investment will hold a hearing entitled “Financial Industry Regulation: the Office of the Comptroller of the Currency.” The hearing will focus on two bills: (1) the Due Process Restoration Act of 2017 ([H.R. 2128](#)); and (2) the Securities Fraud Act of 2018 ([H.R. 5037](#)).

### June 14

***Investor Advisory Committee:*** The Securities and Exchange Commission (SEC) will hold a meeting of its Investor Advisory Committee (IAC). The agenda for the meeting includes discussions of: (1) the Commission’s proposed regulation best interest and proposed restriction on the use of certain names or titles; (2) the Commission’s proposed Form CRS relationship summary, including effective disclosure and design; and (3) disclosure enhancements for municipal and corporate bonds (including a [recommendation](#) of the Market Structure Subcommittee).

***Federal Reserve Open Meeting:*** The Federal Reserve Board will hold an open meeting to consider one item: a final rule to establish single-counterparty credit limits for large U.S. bank holding companies and foreign banking organizations and related regulatory reporting proposal.

*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 AND ENVIRONMENT****Hearing Examines Bills to Reform Onshore Drilling Regulation***Key Points:*

- *On Wednesday, the House Energy and Mineral Resources Subcommittee heard testimony on four draft bills that would reform aspects of the Bureau of Land Management’s oversight and regulation of oil and gas production on federal lands.*
- *Republicans generally expressed support for the four proposed bills while Democrats argued against advancing the legislation.*

On June 6, the House Natural Resources Committee’s Energy and Mineral Resources Subcommittee held a [hearing](#) entitled “Onshore Energy Development Bills.”

The hearing focused on the following draft bills that would address Department of Interior (DOI) and Bureau of Land Management (BLM) permitting and oversight of oil and natural gas development on federal lands:

- “To authorize the Secretary of the Interior to recover the cost of processing administrative protests for oil and gas lease sales, applications for permits to drill, and right of way applications...” ([Discussion Draft H.R. \\_\\_\\_\\_\\_](#)).
- “To clarify the categorical exclusions authorized by the Energy Policy Act of 2005 and authorize additional categorical exclusions to streamline the oil and gas permitting process...” ([Discussion Draft H.R. \\_\\_\\_\\_\\_](#)).
- “To amend the Mineral Leasing Act to authorize notifications of permit to drill...” ([Discussion Draft H.R. \\_\\_\\_\\_\\_](#)).
- “To clarify that Bureau of Land Management shall not require permits for oil and gas activities conducted on

non-Federal surface estate to access subsurface mineral estate that is less than 50 percent Federally owned...” ([Discussion Draft H.R. \\_\\_\\_\\_\\_](#)).

In his opening statement, Subcommittee Chairman Paul Gosar (R-AZ) said the four bills would streamline the permitting processes to increase domestic oil and natural gas production. He argued the legislation would expand jobs and lower gasoline prices.

Subcommittee Ranking Member Alan Lowenthal (D-CA), in his opening statement, expressed concern that all the discussion drafts are consistent with the Trump Administration’s theme of “let the industry do whatever it wants and keep the public in the dark.” He argued the proposals would benefit the wealthy at the expense of average Americans.

In her testimony, Governor Suzanne Martinez (R-NM) declared that Arizona loses \$2 million in tax revenue every day due to BLM’s permit backlog. She noted the average time for BLM permit approval is 250 days compared to 10 days for the New Mexico Energy Minerals and Natural Resources Department. She said there is a current backlog of 800 New Mexico permits at BLM. She stressed that lost tax revenue from oil and gas production is affecting vital services such as education. She stated permitting delays are also affecting job growth and rural economic development. She noted six western state governors submitted four proposals to DOI to streamline permitting processes for standard applications. She stated the draft legislation includes many of the principles outlined in their proposals. Martinez emphasized that duplicative regulations are costing significant revenue losses for the public and private sectors.

Katherine MacGregor, Deputy Assistant Secretary for Land and Minerals Management



stated oil and gas production on public lands support more than 200,000 jobs nationally. She noted that BLM now regularly conducts quarterly lease sales and noted that, in the Fourth Quarter of 2017, BLM held 24 lease sales. She said that BLM is working to improve its permitting process and increased permit approvals 30 percent in 2017. She stated that BLM is also reducing the time for Applications for Permit to Drill (APD). She expressed support for the categorical exclusion draft proposal. She clarified that a categorical exclusion is not an exclusion from the NEPA process. She said it is likely that a NEPA environmental review has already been conducted twice in these cases. She expressed support for the permitting on federal lands discussion draft. She noted this proposal includes language to maintain BLM's authority to audit and impose civil penalties for misreported production. She expressed support for the protest cost discussion draft. She noted that 88 percent of BLM applications are protested causing months of delays. She argued these protests are aimed at disrupting lease sales rather than addressing specific concerns.

### Energy and Environment Briefs

Federal developments related to energy and environment issues this week included:

- **EIA Conference:** The Energy Information Administration (EIA) held its annual [Energy Conference](#) on June 4 and 5.
- **Energy Infrastructure Report:** On June 5, the Federal Energy Regulatory Commission (FERC) released its [Energy Infrastructure Update](#) for April, 2018.
- **Hydropower Licensing:** On June 7, the House Energy and Commerce Committee's Energy Subcommittee held a [hearing](#) on "Improving the Hydropower Licensing Process".

Witnesses included: Ryan Fisher, Principal Deputy Assistant Secretary of the Army, Civil Works, U.S. Army Corps of Engineers; John Goodin, Acting Director, Office of Wetlands, Ocean, and Watersheds, Environmental Protection Agency; and Terry Turpin, Director, Office of Energy Projects, FERC.

- **Committee Approves Critical Infrastructure Cybersecurity Legislation:** On Wednesday, the House Homeland Security Committee approved, by voice vote, the "DHS Industrial Control Systems Capabilities Enhancement Act of 2018" ([H.R. 5733](#)). The bill would direct the Department of Homeland Security's (DHS) National Cybersecurity and Communications Infrastructure Center to identify and address threats to "automated control of critical infrastructure", including through: (1) "coordination with relevant sector specific agencies" to address threats to Supervisory Control and Data Acquisition (SCADA) systems; (2) maintain response capabilities "to respond to industrial control system cybersecurity incidents"; (3) provide technical assistance; and (4) "conduct such other efforts and assistance as [the Homeland Security] secretary deems appropriate". The bill would also require the Center to report to Congress within 6 months, and every six months thereafter, on "the industrial control systems capabilities of the Center."

### Regulatory Activity

Regulatory activity by federal agencies this week included:

- The Environmental Protection Agency published a [notice](#) titled “Proposed Information Collection Request; Comment Request; Information Collection Request for the Underground Injection Control Program”. Public comments due by August 6, 2018.
- The Pipeline and Hazardous Materials Safety Administration (PHMSA) issued a [notice of public meetings](#) titled “Hazardous Materials Safety: International Standards on the Transport of Dangerous Goods”. The meetings will be held on June 12, 2018.
- PHMSA published a [notice and request for comments](#) titled “Pipeline Safety: Information Collection Activities.” PHMSA is soliciting comments on the three information collections: “Recordkeeping Requirements for Liquefied Natural Gas (LNG); “Qualification of Pipeline Safety Training”; and “Pipeline Safety: Periodic Underwater Inspection and Notification of Abandoned Underwater Pipeline Facilities”. PHMSA asks interested individuals to submit comments on or before July 9, 2018.

## Upcoming Hearings and Events

### June 11

***Cormorant Mismanagement Effects:*** The House Natural Resources Committee will hold a hearing titled “Effects of Mismanagement of the Cormorant in the Great Lakes Region” in Alpena, Michigan.

### June 12

***Interior-EPA Appropriations:*** The Senate Appropriations Committee’s Subcommittee on Interior, Environment and Related Agencies will mark up the Fiscal Year 2019 Interior,

Environmental Protection Agency, and Related Agencies Appropriations bill.

### ***Federal Energy Regulatory Commission:***

The Senate Energy and Natural Resources Committee will hold a [hearing](#) on the Federal Energy Regulatory Commission (FERC). All five FERC Commissioners are scheduled to testify.

### June 13

***Hearing on Pending Legislation:*** The Senate Energy and Natural Resources Committee will hold a [hearing](#) on the following legislation: a bill “to authorize the Secretary of the Interior to convey certain land and facilities of the Central Valley Project” (S. 3001); the “Arbuckle Project Maintenance Complex and District Office Conveyance Act of 2017” (H.R. 132); and the “Bureau of Reclamation Pumped Storage Hydropower Development Act” (H.R. 1967).

***Markup of Pending Legislation:*** The House Natural Resources Committee will mark up pending legislation.

### June 14

***Interior-EPA/Commerce-Justice-Science Appropriations:*** The Senate Appropriations Committee will mark up the Fiscal Year 2019 Interior, Environmental Protection Agency Appropriations bill and the Fiscal Year 2019 Commerce, Justice, Science Appropriations bill.

### 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.”

**June 21**

**FERC Open Meeting:** The Federal Energy Regulatory Commission will hold its monthly [meeting](#).

For more information about energy and environment issues you may [email](#) or call Frank Vlossak at 202-659-8201. Alex Barcham, Thomas McGrath, Cullen Neely, and Marissa Schwartz contributed to the articles. Updates on energy and environment issues are also available on [twitter](#).

**DEFENSE****Senate Takes Up FY 2019 NDAA***Key Point:*

- *Senate moves onto the FY 2019 NDAA, with consideration of amendments to possibly begin next week after cloture motion is adopted*

This week, the Senate took up and began work on the “John S. McCain National Defense Authorization Act for Fiscal Year 2019” (NDAA) ([S.2987](#)). On June 7, the Senate invoked cloture on the motion to proceed to the “National Defense Authorization Act for Fiscal Year 2019” ([H.R.5515](#)), setting up a vote to adopt the motion on June 11. It was necessary to file a motion to invoke cloture when Senator Rand Paul (R-KY) objected to Senator Jim Inhofe’s (R-OK) unanimous consent request to proceed to the NDAA. Paul then asked unanimous consent to consider his amendment on detainees at Guantanamo Bay, but Inhofe objected. Consequently, the Senate invoked cloture by unanimous consent with a vote

The Senate Armed Services Committee released both bill text and the [Committee Report](#) in advance of the bill being brought to the floor. In the Committee Report, the Committee explained the topline funding numbers:

The administration’s budget request for national defense discretionary programs within the jurisdiction of the Senate Committee on Armed Services for fiscal year 2019 was \$707.9 billion. Of this amount, \$617.1 billion was requested for base Department of Defense (DOD) programs, \$21.8 billion was requested for national security programs in the Department of Energy (DOE), and \$69.0 billion was requested for Overseas Contingency Operations (OCO). The committee recommends an overall discretionary authorization of \$707.9 billion in fiscal year 2019, including \$617.6 billion for base DOD programs, \$21.7 billion for national security programs in the DOE, and \$68.5 billion for OCO.

The Committee also released a detailed [summary](#) after it marked up the bill last month.

**Defense Subcommittee Marks Up FY 2019 DOD Appropriations Bill***Key Points:*

- *The House Appropriations Committee’s Defense Subcommittee marked up the Pentagon’s appropriations bill in a closed session*
- *The package reflects the higher defense topline set in the Bipartisan Budget Act of 2018*

This week, the House Appropriations Committee released its draft [FY 2019 Department of Defense Appropriations Act](#) that was marked up in closed session by the Defense Subcommittee. In its [summary](#), the Committee explained that the bill “provides a total of \$674.6 billion for the Department of Defense...[which] includes \$606.5 billion in base discretionary funding – an increase of \$17.1 billion above the fiscal year 2018 enacted

level and \$0.9 billion below the President’s Defense budget request.” The Committee added that “[t]he bill also provides \$68.1 billion in Overseas Contingency Operations (OCO)/Global War on Terrorism (GWOT) funding.” The Committee asserted that “[t]his funding level is consistent with the [the “National Defense Authorization Act for Fiscal Year 2019” ([H.R.5515](#))] which was approved by the House last month, as well as the recently enacted budget agreement.”

The Committee identified the following bill highlights:

- **OCO/GWOT** – The legislation includes \$68.1 billion in OCO/GWOT funding. This will provide the needed resources for preparation and operations in the field to fight ongoing threats, including funding for personnel requirements, operational needs, the purchase of new aircraft to replace combat losses, combat vehicle modifications, additional Intelligence, Surveillance, and Reconnaissance (ISR) assets, and maintenance of facilities and equipment. It also provides critical support to our key allies, such as Israel, Ukraine and Jordan, to resist aggression.
- **Military Personnel and Pay** – The legislation includes \$144 billion – \$139.3 billion for base requirements and \$4.7 billion for OCO/GWOT requirements – to provide for 1,338,100 active-duty troops and 817,700 Guard and Reserve troops. The bill fully funds the request 15,600 end strength increase and the 2.6 percent pay raise for the military.
- **Operation and Maintenance** – Included in the legislation is \$245.9 billion – \$197.6 billion for base requirements and \$48.3 billion for OCO/GWOT requirements – for operation and maintenance. Funding for base requirements is \$9.3 billion above fiscal year 2018. This funding supports key readiness programs to prepare our troops for combat and peacetime missions, including flight time and battle training, equipment and facility maintenance, and base operations. Within this amount, the bill includes \$1 billion above the request to fill readiness shortfalls, \$1.05 billion above the request to invest in facility sustainment, restoration, and modernization programs, and \$20.6 billion total for depot maintenance. This funding will help rebuild our forces to ensure our troops have the training and equipment they need.
- **Research and Development** – The bill contains \$92.4 billion – \$91.2 billion for base requirements and \$1.2 billion for OCO/GWOT requirements – for research, development, testing, and evaluation of new defense systems and technologies. Funding for base requirements is \$2.9 billion above the fiscal year 2018 level, and will help to support current military operations and to prepare our nation to meet a broad range of future security threats. Specifically, this funding will support research and development of: the F-35 Joint Strike Fighter; space security programs; nuclear force modernization; continuation of the JSTARS recapitalization program; the Ohio-class submarine replacement; Future Vertical Lift; the Israeli Cooperative Programs; and other important research and development activities, including those within the Defense Advanced Research Projects Agency (DARPA).
- **Equipment Procurement** – The legislation provides a total of \$145.7 billion – \$133 billion for base

requirements and \$12.7 billion for OCO/GWOT requirements – for equipment and upgrades. Funding for base requirements is \$2.5 billion above the request. These funds support our nation’s military readiness by providing the necessary platforms, weapons, and other equipment our military needs to train and operate both for both the current fight and future fights.

- **Defense Health and Military Family Programs** – The bill contains a total of \$34.4 billion -- \$34 for base requirements and \$352 million for OCO/GWOT requirements – \$318 million above the request– for the Defense Health Program to provide care for our troops, military families, and retirees. Specifically, the bill provides \$364 million for cancer research, \$125 million for traumatic brain injury and psychological health research, and \$318 million for sexual assault prevention and response. All of these funding levels represent increases above the President’s request.
- **Reductions and Rescissions to Save Tax Dollars** – The bill reflects commonsense decisions to save taxpayer dollars where possible in areas that will not affect the safety or success of our troops and missions, such as \$870 million in savings from rescissions of unused prior-year funding.

## Upcoming Hearings and Events

### June 13

**DOD Aviation Safety:** The House Armed Services Committee’s Tactical Air and Land Forces Subcommittee will hold a [hearing](#) titled “Department of Defense Aviation Safety Mishap Review and Oversight Process.”

### June 14

**Depot and Infrastructure Issues:** The House Armed Services Committee’s Readiness Subcommittee will hold a [hearing](#) titled “Navy and Air Force Depot Policy Issues and Infrastructure Concerns.”

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

## HEALTH

### Board Releases 2018 Medicare Trustees Report

#### Key Points:

- *The report predicts the Medicare trust fund will be depleted in 2026.*
- *The Trustees urge legislative action from Congress to address the forecasted financial shortfalls of the Medicare program.*

On June 5, 2018, the Medicare Board of Trustees released the [2018 Medicare Trustees Report](#) which describes the financial future and solvency of the Medicare program. In the report’s introduction, the Trustees emphasize projections of Medicare costs are highly uncertain due to new innovations in the health care space and the evolution of the health care delivery system. According to the report, Medicare covered 58.4 million people and total expenditures were \$710.2 billion, while total income was \$705.1 billion in 2017. Due to the number of Medicare beneficiaries and the findings highlighted in the report, the Trustees suggest swift action from Congress in order to address the financial shortfalls of the program.

The Trustees announced the Hospital Insurance (HI) trust fund is not sufficiently financed over the next ten years because the income of HI is expected to decrease due to lower payroll taxes as a result of lower wages and lower levels of projected gross domestic product. The report predicts that expenditures



for HI will be higher than last year's due to the higher-than-expected spending, higher Medicare Advantage payments, and legislation that increased hospital spending. Furthermore, the group predicts the depletion of the HI trust fund by 2026. In contrast, the Trustees report the Supplementary Medical Insurance Trust Fund is expected to be adequately financed as the "premium income and general revenue income for Parts B and D are reset each year to cover expected costs and ensure a reserve for Part B contingencies."

The Trustees issued a determination of excess general revenue Medicare funding as the difference between the program's outlays and financing will exceed 45 percent of outlays in the next seven years. As a result, a Medicare funding warning is triggered. The President is required to respond with proposed legislation when the warning is triggered.

The report also highlights the enacted laws from this past year that have had an impact on the Medicare trust funds. These laws include the Bipartisan Budget Act of 2018 and the Tax Cuts and Jobs Act. Most notably, the Independent Payment Advisory Board provisions and payment caps for certain therapy services were repealed in the Bipartisan Budget Act of 2018. Additionally, the Tax Cuts and Jobs Act repealed the individual mandate for health insurance, thus increasing the number of uninsured individuals. As described in the report, payments to disproportionate share hospitals are expected to increase because the percentage of uninsured individuals is used to determine the payments made. The Trustees also emphasize some individuals may drop their employer-sponsored health insurance as a result which will increase taxable payroll.

House Ways and Means Chairman Kevin Brady (R-TX) said "these reports make clear that we need to act to strengthen these important

programs." He called for bipartisan efforts. Senate Finance Committee Ranking Member Ron Wyden (D-OR) asserted the report demonstrates "Trump's tax law yanked Medicare closer to insolvency...the president's rap sheet on health care gets worse by the day." Brady responded to these criticisms by pointing out the report "used an outdated economic forecast—creating the mistaken impression that we have a weaker growth outlook in 2018 that we did last year." He argued the pro-growth effects of tax reform are not reflected in the report.

Read the full report [here](#).

### **House Begins Votes on Opioids Bills Next Week; Senate Finance Schedules Markup**

#### *Key Points:*

- *The House is expected to begin consideration of opioids legislation next week.*
- *The Senate Finance Committee announced it will hold a markup next week of the Helping to End Addiction and Lessen (HEAL) Substance Use Disorders Act of 2018.*

On May 6, House Majority Leader Kevin McCarthy (R-CA) announced on the floor that the House will consider opioids legislation over the next two weeks. He stressed "this epidemic is destroying America" and noted "it will take...two weeks to finish this process, but at the end of the day we'll continue to make America safe and more secure and more prosperous." The full list of bills has not yet been announced, but it is expected to include most of the bills considered by the House Energy and Commerce Committee along with some from other committees.

The Senate Finance Committee has announced it will hold a markup of the Helping to End Addiction and Lessen (HEAL) Substance Use Disorders Act of 2018. According to the

Chairman’s mark, the bill incorporates much of the legislation previously announced by the Committee. If favorably reported by the Committee, this legislation will join other opioids bills already favorably reported by the Senate Health, Education, Labor and Pensions Committee, Senate Judiciary Committee, and Senate Commerce, Science and Transportation Committee. Read the Chairman’s mark [here](#).

A spokesman for Senate Majority Leader Mitch McConnell (R-KY) indicated the Senate could take up opioid legislation in August now that recess has been cancelled.

**Upcoming Hearings and Meetings**

**June 12**

**Drug Pricing:** The Senate Health, Education, Labor and Pensions Committee will hold a hearing on “The Cost of Prescription Drugs: Examining the President’s Blueprint ‘American Patients First’ to Lower Drug Prices.”

**Opioids:** The Senate Finance Committee will hold a markup of the “Helping to End Addiction and Lessen (HEAL) Substance Use Disorders Act of 2018.”

**Drug Pricing:** The National Coalition on Health Care, the Public Sector HealthCare Roundtable and the Better Medicare Alliance will hold a forum on “Health Care at a Crossroads: Policy Options to Address Soaring Drug Costs and Ensure Better Care for Seniors.”

**June 13**

**Mental Health:** The Washington Post Live will hold a discussion on “Mental Health and Well-Being in America.”

**June 14**

**Improving Care:** The U.S. Chamber of Commerce will hold a conference on “Aligning Incentives for Better Health.”

**Drug Pricing:** The Alliance for Health Policy will host a webinar on “Prescription Drug Costs: Can Increased Competition Restrain Prices?”

**June 19**

**340B:** The Senate Health, Education, Labor and Pensions Committee will hold a hearing on “Effective Administration of the 340B Drug Pricing Program.”

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

**TRANSPORTATION AND INFRASTRUCTURE**

**Senate Appropriations Marks Up and Reports Out FY 2019 THUD Appropriations Act**

*Key Point:*

- *The Committee unanimously reported out a package that rejects the Administration’s proposed deep cuts*

On June 7, the Senate Appropriations Committee held a [markup](#) of the Fiscal Year (FY) 2019 Transportation, Housing and Urban Development, and Related Agencies (THUD) Appropriations Act. The Committee favorably reported the bill, as amended, by a roll call vote of 31-0.

Chairman Richard Shelby (R-AL), in a [statement](#), said the Committee was continuing its effort complete all 12 appropriations bills

before the July 4 recess and return the Senate to a regular appropriations process. He said the subcommittees have worked to craft bipartisan bills which can pass the Senate and reach the President's desk. He commended the Committee members for focusing on appropriating rather than on authorizing legislation. Shelby said the THUD bill is a strong bill, which would provide \$71.4 billion in funding. He stated that the bill provides \$10 billion in infrastructure funding, including \$5.3 billion for highways, \$1.1 billion for public transportation, \$750 million for airports, and \$500 million for Better Utilizing Investments to Leverage Development (BUILD) grants. He said this funding is critical, but more is needed. He stated that he looks forward to supporting the bill.

Ranking Member Patrick Leahy (D-VT) said he has worked closely with the Chairman on the bill. He said the bill is a product of bipartisan cooperation. He stated that it will make key infrastructure investments across the country, including for roads and bridges. He said the increases in the bill are a result of the "Bipartisan Budget Act of 2018" (P.L. 115-123) enacted earlier in the year. He expressed concern with the cuts proposed by the President.

The Committee made available this [summary](#) of the Department of Transportation (DOT) title:

**Transportation** – \$26.6 billion in discretionary appropriations for the U.S. Department of Transportation for FY2019. This is \$698 million below the FY2018 enacted level. Within this amount, priority is placed on programs to improve the safety, reliability, and efficiency of the transportation system.

- **BUILD Grants** – \$1 billion for Better Utilizing Investments to Leverage

Development (BUILD) grants, previously known as TIGER grants.

- **Highways** – \$46 billion from the Highway Trust Fund for the Federal-aid Highways Program, consistent with the FAST Act. In keeping with the two-year budget agreement's emphasis on infrastructure investments, the bill provides \$3.3 billion in additional funding for highway programs, including \$90 million to eliminate hazards at railway-highway grade crossings and \$800 million for bridge repairs. The bill maintains flexibility for State Departments of Transportation to repurpose some stagnant project funding for current infrastructure projects.
- **Aviation** – \$17.7 billion in total budgetary resources for the Federal Aviation Administration (FAA), which fully funds all air traffic control personnel, including more than 14,000 air traffic controllers, and more than 25,000 engineers, maintenance technicians, safety inspectors, and operational support personnel.

The bill provides \$1 billion for FAA Next Generation Air Transportation Systems (NextGen) programs and provides not less than \$168 million for the Contract Towers program. The bill also provides \$750 million in additional funding for airport improvements.

- **Rail** – \$2.8 billion for the Federal Railroad Administration (FRA). This includes \$1.9 billion to Amtrak for the Northeast Corridor and National Network, continuing service for all current routes. The bill provides \$262 million for FRA safety and operations, as well as research and development activities.

Additionally, the bill provides \$255 million for the Consolidated Rail Infrastructure and Safety Improvement grants program, \$300 million for Federal-State Partnership for State of Good Repair grants, and \$10 million for Restoration and Enhancement grants.

- **Transit** – \$13.5 billion for the Federal Transit Administration (FTA). Transit formula grants total \$9.9 billion, from the Mass Transit Account of the Highway Trust Fund, consistent with the FAST Act. In addition, \$800 million is provided from the general fund for transit infrastructure grants. The bill provides a total of \$2.6 billion for Capital Investment Grants (CIG), fully funding all current “Full Funding Grant Agreement” (FFGA) transit projects, as well as new projects that have met the rigorous criteria of CIG.
- **Maritime** – \$818 million for the Maritime Administration to increase the productivity, efficiency, and safety of the nation’s ports and intermodal water and land transportation. The Maritime Security Program is funded at \$300 million.

## Upcoming Hearings and Events

### June 13

**Impact of AVs:** The Senate Environment & Public Works Committee will hold a [hearing](#) titled “Innovation and America’s Infrastructure: Examining the Effects of Emerging Autonomous Technologies on America’s Roads and Bridges.”

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

## TECHNOLOGY

### Federal Appeals Court Rules Against FTC's Use of Cease and Desist Orders In Data Security Cases

#### *Key Points:*

- *The Eleventh Circuit held that cease and desist orders requiring the establishment and maintenance of comprehensive data security regimes are unenforceable and hence beyond the FTC’s Section 5 powers to punish unfair and deceptive practices*
- *If upheld, this could cause the primary federal data security regulator to change tactics and possibly have fewer means of policing what it considers subpar data security*

This week, a federal appellate court has ruled against the Federal Trade Commission’s (FTC) use of its Section 5 powers to enter into settlements requiring private entities to establish and maintain remedial, “reasonable” data security practices. The court held that such settlements are contrary to the FTC Act because they do not enjoin specific acts or practices and rather command entities to institute data security practices. The court also found that such settlements are ultimately unenforceable because they are vague as to what is a reasonable data security regime. The FTC is likely to appeal to the Supreme Court of the United States.

The FTC started looking at LabMD’s data security practices in 2009 after it came to the agency’s attention that a peer-to-peer file sharing application has been installed on a firm’s computer that made available the personal information of more than 9300 consumers. Thereafter, this case moved slowly through the FTC’s processes as first an FTC administrative law judge first heard the case and then the full FTC. When the FTC ruled against LabMD, it appealed to the U.S. Circuit

Court of Appeals for the Eleventh Circuit (Eleventh Circuit), which stayed enforcement of the FTC's cease and desist order in 2016.

In the [instant case](#), LabMD argued that the FTC's cease and desist order "is unenforceable because the order does not direct it to cease committing an unfair "act or practice" within the meaning of Section 5(a)" of the FTC Act. The FTC's original complaint against LabMD "alleged that LabMD had committed an "unfair act or practice" prohibited by Section 5(a) by "engag[ing] in a number of practices that, taken together, failed to provide reasonable and appropriate security for personal information on its computer networks."

The Eleventh Circuit granted LabMD's request "to vacate the order, arguing that the order is unenforceable because it does not direct LabMD to cease committing an unfair act or practice within the meaning of Section 5(a)." The Eleventh Circuit noted that injunctions must be specific should the enjoined party may understand which conduct is prohibited in order to avoid legal repercussions. And, if injunctions are not specific, the Eleventh Circuit reasoned, then they may be unenforceable. The Eleventh Circuit claimed the FTC's cease and desist order "contains no prohibitions" and rather "commands" LabMD "to overhaul and replace its data-security program to meet an indeterminable standard of reasonableness." For these reasons, it would ultimately fall to a district court to determine what are "reasonable" data security standards, an outcome the Eleventh Circuit claims is contrary to Congress' intent in establishing the FTC and its powers.

The FTC has long used cease and desist orders in which a private sector entity is directed to improve its data security standards and is subject to FTC oversight for ten years or more. The FTC can then revisit the settlement if any

adverse events follow. If this decision is upheld by the Supreme Court, then the FTC's approach to data security enforcement could be significantly changed and or weakened. If the agency can no longer enter into consent agreements directing entities to improve their data security, the FTC may seek larger monetary penalties or settlements in the first instance. The agency's current approach has been a willingness to trade off fines for a long period of data security oversight for the offending private sector party. This approach may change. Moreover, there may be more challenges to the FTC's authority to police data security under Section 5 as well.

### Upcoming Hearings and Events

#### **June 12**

***Election Interference:*** The Senate Judiciary Committee will hold a [hearing](#) titled "Election Interference: Ensuring Law Enforcement Is Equipped to Target Those Seeking to Do Harm."

#### **June 13**

***NTIA Oversight:*** The Senate Commerce, Science & Transportation Committee will hold a [hearing](#) titled "Oversight of the National Telecommunications and Information Administration."

#### **June 14**

***Digital Advertising:*** The House Energy & Commerce Committee's Digital Commerce and Consumer Protection Subcommittee will hold a [hearing](#) titled "Understanding the Digital Advertising Ecosystem."

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



**TRADE****With NAFTA Stalled, Trump Seriously Considering Shift in Negotiation Strategy***Key Point:*

- White House Economic Adviser Larry Kudlow said on Tuesday that President Trump has developed a preference for holding bilateral trade negotiations separately with Canada and Mexico

President Trump is “seriously considering” negotiating bilateral negotiations with Canada and Mexico separately, instead of all three countries renegotiating the North American Free Trade Agreement, according to White House economic adviser Larry Kudlow on Fox News Tuesday morning. “His preference now, he asked me to convey this, is to actually negotiate with Mexico and Canada separately,” Kudlow said Tuesday during an interview on Fox News. “I know this is just three countries but still, you know, oftentimes when you have to compromise with a whole bunch of countries, you get the worst of the deals.”

Kudlow added that despite the shift in strategy, the President doesn’t plan to quit NAFTA. “The president’s not going to leave Nafta,” said Kudlow. “He’s just going to try a different approach. I can’t offer timing here, but judging from what he told us yesterday, I think he’d like to start that approach rather quickly.” However, on Friday morning Trump told reporters before leaving for the G-7 summit in Canada, “If we are unable to make a deal, we’ll terminate NAFTA. We’ll have a better deal.”

**EU and Mexico to Impose Retaliatory Tariffs***Key Points:*

- The European Commission announced that its [first wave of retaliatory tariffs](#) on \$3.3 billion of U.S. goods will be imposed in July.
- Mexico released its own [retaliatory tariff list](#) that targets agricultural goods and steel products.

This week the EU has confirmed plans to target \$3.3 billion of US products with extra tariffs as it prepares to retaliate against President Trump’s recent move to impose tariffs on European steel and aluminum imports. The European Commission said on Wednesday that it would apply the tariffs to a list of US goods ranging from whiskey to pleasure boats. The EU intends to have the measures in place by July. EU Trade Commissioner Cecilia Malmström called the tariffs a “measured and proportionate response to the unilateral and illegal decision taken by the United States to impose tariffs on European steel and aluminum exports.” These tariffs will be placed on a wide variety of steel, textile, and agricultural goods. The EU has asserted that the World Trade Organization (WTO) Safeguards Agreement enables it to impose a total of \$7.5 billion in tariffs on the U.S. The EU has stated its intent to impose an additional \$4.2 billion in tariffs in three years, after a positive finding in WTO dispute settlement.

On Tuesday, Mexico published the tariffs it is imposing on products imported from the United States in response to the steel and aluminum tariffs. The list includes tariffs ranging from 15 to 25 percent on a host of pork products, apples, potatoes, cheeses, bourbon, inboard motor boats and some flat steel and tubes. U.S. agricultural trade organizations responded quickly, with the National Pork Producers Council noting that,

“Mexico is U.S. pork’s largest export market, representing nearly 25 percent of all U.S. pork shipments last year. A 20 percent tariff eliminates our ability to compete effectively in Mexico. This is devastating to ... pork producing families across the United States.”

*For more information on trade 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 Schnepf. Janie Costa and Kyle Gerron contributed to this section.*

## Senator Corker Introduces Bill to Curb Presidential Tariff Power

### *Key Point:*

- Senate Foreign Relations Chairman Bob Corker (R-TN) introduced a [bill](#) that would require the President to get congressional approval before imposing Section 232 tariffs.

On Wednesday, Senate Foreign Relations Committee Chairman Senator Corker introduced a bipartisan bill that would require Congressional approval prior before a President could impose tariffs for national security reasons. The bill would require the President to receive a joint resolution of approval from Congress before imposing Section 232 tariffs.

Senator Corker said that he had a lengthy discussion with President Trump and said he is “obviously not pleased with this effort.” Corker is hoping to attach his bill as an amendment to an annual defense policy bill or National Defense Authorization Act, currently pending in the Senate. He acknowledged that, “There are people here that probably have concerns about going against the president, [but] to me this is the kind of thing that should pass 100 to nothing.” The bill has so far received significant bipartisan support. U.S. business groups have also expressed their support for this legislation.