

July 20, 2018

Washington Update

This Week in Congress

- **House** – The House passed the “**JOBS and Investor Confidence Act of 2018**” (S. 488); the “**Elie Wiesel Genocide and Atrocities Prevention Act of 2018**” (H.R. 3030); the “**Protecting Diplomats from Surveillance Through Consumer Devices Act**” (H.R. 4989); and the “**Interior, Environment, Financial Services, and General Government Appropriations Act, 2019**” (H.,R. 6147).
- **Senate** – The Senate passed a bill “to delay the reduction in Federal medical assistance percentage for Medicaid personal care services furnished without an electronic visit verification system” (H.R. 6042); confirmed **Scott Stump** to be Assistance Secretary for Career, Technical, and Adult Education, Department of Education; **James Blew** to be Assistant Secretary for Planning, Evaluation, and Policy Development, Department of Education; **Randal Quarles** to be a Member of the Board of Governors of the Federal reserve; and **Andrew S. Oldham** to be United States Circuit Judge for the Fifth Circuit.

Next Week in Congress

- **House** – The House may consider the “**Restoring Access to Medication and Modernizing Health Savings Accounts Act of 2018**” (H.R. 6199); the “**Increasing Access to Lower Premium Plans and Expanding Health Savings Accounts Act of 2018**” (H.R. 6331); and the “**Protect Medical Innovation Act of 2017**” (H.R. 184).
- **Senate** – The Senate will resume consideration of the nomination of **Robert L. Wilkie** to be Secretary of Veterans Affairs.

TAX

Outline of Tax Reform 2.0 Expected Next Week

Key Points:

- *“Phase 2” outline expected to be released next week; House is expected to vote on the legislation in September*

- *House Ways and Means Committee passed The Save Community Newspaper Act of 2018*

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At a White House meeting this week with President Trump to discuss a second round of tax cut legislation this year that has come to be known as “tax reform 2.0”, Ways and Means Committee Chair Rep. Kevin Brady (R-TX) said that he anticipates the House voting on the bill in September. Following the meeting Brady said that they were “well-aligned with the White House, but they will have to continue having “discussions with the Senate and listen to what they’d like to see.”

In comments the following day, Chairman Brady said that he intends to release an outline of the plan next week and start listening sessions with members of the House Republican Conference. According to Brady, “It’ll be out next week. As we start listening sessions, you’ll see the outline.” The package is expected to include a three-bill package: Extension of expiring tax cuts, expansion of incentives for savings and policies to promote innovation. Brady has previously said that making the individual tax cuts from last year’s law permanent would be the “centerpiece” of the effort. Additionally, Rep. Carlos Curbelo (R-FL) told reporters that the tax package would not address international items like the global intangible low-tax income (GILTI) or the base erosion anti-abuse tax (BEAT).

Also notable from the House Ways and Means Committee this week – The Save Community Newspaper Act of 2018 ([H.R. 6377](#)) passed by voice vote. The bill would extend the amortization period for community newspaper pension plans and would allow community newspapers to apply alternative rules to single-employer retirement plans.

Senate Finance Committee Advances IRS Commissioner Nomination

Key Point:

- *Senate Finance Committee advances the nomination of Charles Rettig by a vote of 14-13; Committee Democrats said Rettig was qualified but objected to an administration decision to end donor disclosure requirements for most nonprofits.*

On Thursday, the Senate Finance Committee advanced the nomination of Charles Rettig to be Commissioner of the Internal Revenue Service (IRS) by a vote of 14-13. According to Chairman Senator Orrin Hatch (R-UT): “Chuck Rettig is the right pick to both implement tax reform and restore trust in the IRS. I am pleased that the committee advanced his nomination, and I look forward to the Senate acting quickly on his nomination so he can get started on the hefty tasks he will be charged with as the agency’s leader.” Rettig has spent the majority of his career as a tax lawyer. There is no timetable for when the full Senate will vote on the nomination.

Democrats opposed the nomination due to a policy that eliminates a requirement for some tax-exempt groups to report their donors to the IRS. Ranking Member Ron Wyden (D-OR) said: “The Trump Administration has taken a qualified nominee and dumped him right into the middle of a dark money political firestorm of their own creation.” Democrats have insisted that they need to express their concern over the matter and are demanding to meet Rettig to discuss it.

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

House Passes Bipartisan Capital Markets Reform Package

Key Point:

Williams & Jensen, PLLC
701 8th Street, N.W. Suite 500 Washington, D.C. 20001
Telephone: (202) 659-8201 Fax: (202) 659-5249
www.williamsandjensen.com

- *The House passed a package of 32 bipartisan bills focused on enhancing capital formation.*

On July 17, the House passed a package of bipartisan securities bills, known as the JOBS and Investor Confidence Act of 2018 ([S. 488](#)). The bill passed the House by a vote of 406-4. The Senate has not yet taken action on the bill.

On July 16, House Financial Services Chairman Jeb Hensarling (R-TX) and Ranking Member Maxine Waters (D-CA) issued a [press release](#) announcing that they had reached an agreement on a package of capital formation bills. The package consists of 32 bills which previously passed the Committee with bipartisan support. Some of the bills in the package include:

- The International Insurance Standards Act ([H.R. 4537](#)), introduced by Representative Sean Duffy (R-WI), which would prohibit federal government representatives from agreeing to any international insurance standard unless it is consistent with the U.S. state-based system of regulations. It would also include changes and the current process for covered agreements..
- The Main Street Growth Act ([H.R. 5877](#)), introduced by Representative Tom Emmer (R-MN), which would allow for the creation and registration of venture exchanges with the SEC.
- The Enhancing Multi-Share Disclosures Act ([H.R. 6322](#)), introduced by Representative Gregory Meeks (D-NY), which would amend the Securities Exchange Act of 1934 to require issuers with multi-class stock structures to make certain disclosures in any proxy or consent solicitation material.
- The Fair Investment Opportunities for Professional Experts Act ([H.R. 1585](#)),

introduced by Representative David Schweikert (R-AZ), which would modernize the definition of accredited investor to allow those who do not have a high income or high net worth but do have the education and job experience to invest in certain companies.

- The Fostering Innovation Act ([H.R. 1645](#)), introduced by Representative Kyrsten Sinema (D-AZ), which would amend Section 404(b) of the Sarbanes-Oxley Act to extend the exemption to comply with the law for certain low-revenue emerging growth companies (EGCs) that would otherwise lose their exempt status at the end of the five-year period that applies under current law.
- The Exchange Regulatory Improvement Act ([H.R. 3555](#)), introduced by Representative Barry Loudermilk (R-GA), which would require the SEC to set forth the facts and circumstances it considers in determining what is a “facility” of an exchange.
- The Encouraging Public Offerings Act of 2017 ([H.R. 3903](#)), introduced by Representative Ted Budd (R-NC), amend the Securities Act of 1933 to expand to all public companies the “test-the-waters” provision of the Jumpstart Our Business Startups (JOBS) Act, which previously applied only to EGCs.
- The Expanding Investment in Small Businesses Act ([H.R. 6319](#)), introduced by Representative Randy Hultgren (R-IL), which would require the SEC to study the current diversified fund limit threshold for mutual funds of 10 percent of the voting shares in an individual company and determine

whether such threshold limits capital formation.

The bill will now go to the Senate for consideration.

Senate Confirms Randal Quarles for a 14 Year Term as a Federal Reserve Board Governor

Key Point:

- *The Senate confirmed Randal Quarles for a 14 year term as a Federal Reserve Board governor by a vote of 66-33.*

On July 17, the Senate confirmed Randal Quarles to be a member of the Federal Reserve Board of Governors for a 14 year term beginning February 1, 2018. The nomination was approved by a vote of 66-33.

The Senate previously confirmed Quarles for an unexpired term 14 year term as governor from February 1, 2004. Additionally, Quarles was confirmed on October 5, 2017 for a four year term as Vice Chairman of the Federal Reserve.

House Passes Financial Services Appropriations Bill

Key Point:

- *The bill would provide \$23.4 billion for Financial Services and General Government provisions.*

On July 19, the House passed their Fiscal Year (FY) 2019 Financial Services and General Government (FSGG) Appropriations bill ([H.R. 6147](#)), as part of a “minibus” with the Interior-Environment Appropriations bill. The bill passed by a vote of 217-199. H.R. 6147 would provide \$23.4 billion in funding for Financial Services and General Government provisions. The bill would fund the Securities and

Exchange Commission at \$1.695 billion, with is \$201 million below the FY 2018 enacted amount and \$4 million below the President’s FY2019 Budget Request. The bill would fund the Federal Deposit Insurance Corporation (FDIC) at \$42.98 million, which is \$3.84 million above the FY 2018 enacted amount and the same as the President’s FY2019 Budget Request. The bill also provides funding for the Treasury Department, including \$117.8 million for the Financial Crimes Enforcement Network (FinCEN), \$11.6 billion for the Internal Revenue Services (IRS), and \$161 million for the Office of Terrorism and Financial Intelligence. The Commodity Futures Trading Commission (CFTC) is funded through the Agriculture Appropriations bill, rather than the FSGG bill.

The White House has released a [Statement of Administration Policy](#) (SAP) which raised concerns that the bill would fund multiple agencies above the level in the President’s FY2019 Budget Request. However, the SAP did not indicate whether the President would sign or veto the bill if it were to reach his desk.

House Financial Services Panel Holds Hearing on Capital Requirements

Key Point:

- *The hearing focused on bank capital standards, regulatory requirements, and stress testing.*

On July 17, the House Financial Services Committee’s Financial Institutions and Consumer Credit Subcommittee held a [hearing](#) entitled: “Examining Capital Regimes for Financial Institutions.”

Chairman Blaine Luetkemeyer (R-MO) said the Subcommittee held a hearing in April on the impact regulators have on institutions, their customers, and the U.S. economy as a whole.

He argued that while some relief has been seen, there is more work to be done. He noted that Randal Quarles of the Federal Reserve outlined his vision for regulations and called for policies that limit confusion and advance the overall goal of a safe financial industry. Luetkemeyer highlighted the importance of capital and said capital levels should be set in a way that does not stifle growth. He explained that he would first urge the Federal Reserve to implement statutory changes in [S. 2155](#), without delay. He also called for the Federal Reserve to recognize that the world has changed and that institutions with capital levels below \$250 million should receive tailor-made regulations. He also said there needs to be greater transparency and more streamlined regulatory regimes.

Representative David Scott (D-GA) said it is important to remember that stress tests are an important tool for regulators in the aftermath of the 2008 financial crisis. He added that stress tests were put in place in order to test the health of the nation's banks. He stated that if it were not for the more stringent capital requirements, the financial system would not be as safe as it is today. He further argued that the changes have made the nation's banks more resilient while simultaneously expanding bank lending. He said the regulations have made banks more active in getting necessary capital into the workplace. He acknowledged that no law is perfect and that lawmakers cannot be unwilling to look at Dodd-Frank rules simply because they are too politically difficult to discuss. He noted that he is a cosponsor of the Stress Test Improvement Act ([H.R. 4293](#)).

House Committees Hold Hearings on Digital Currencies

Key Point:

- *The hearings examined the risks and benefits associated with emerging digital currencies.*

This week the House held a pair of hearing focused on digital currencies. On July 18 2018, the House Agriculture Committee held a [hearing](#) entitled: "Cryptocurrencies: Oversight of New Assets in the Digital Age." Chairman Michael Conaway (R-TX) said cryptocurrencies offer new ways for people to interact and engage in commerce with each other. He stated individuals are able to exchange value in the digital realm without an intermediary. He argued the technology could bring benefits to everyone if the government gives it space to grow. He advocated for providing a strong and clear regulatory framework for cryptocurrencies. He observed it is unclear whether a particular token should be deemed a security. He stated the "Howey Test" is challenging to use for cryptocurrencies. He said the regulatory regime should not be static regardless of if a token is classified as a security, commodity, or something else. He suggested Congress should consider creating a new regulatory and statutory framework for cryptocurrencies. He argued the Committee has a vested interest in the definition of a security because it has a direct link to the definition of a commodity. He said the Committee wants to promote safe, transparent, and efficient token markets.

Ranking Member Collin Peterson (D-MN) said the Committee's job is to oversee the Commodity Futures Trading Commission's (CFTC) regulation of cryptocurrencies. He observed cryptocurrencies are very volatile. He noted a study found 80 percent of initial coin offerings (ICOs) are scams. He stated 97 percent of Bitcoin is held by just 4 percent of the participants of the cryptocurrency.

Additionally, on July 18, the House Financial Services Committee's Subcommittee on Monetary Policy and Trade held a hearing entitled "The Future of Money: Digital Currency." Chairman Andy Barr (R-KY) said

cryptocurrency was designed to be different from traditional currency. He questioned if digital currencies would have far reaching effects and change the global economy. He said the price of Bitcoin rose dramatically in 2017, reaching over \$20,000 at one point. He added Bitcoin has been implicated in illegal online purchases and hacks. He expressed interest in any effects digital currency has on monetary policy and the international financial system. He cited various opinions from industry analysts both supporting and disregarding digital currency and its future.

Representative Bill Foster (D-IL) expressed interest in asset-backed crypto as well as digital fiat currencies. He said Congress must be prepared to respond if there is a foreign digital currency with the ability to supplant the dollar. He stressed the issue of anonymity was central to the discussion of digital currencies. He expressed concern with the lack of authentication of transfers on digital currency platforms. Representative Brad Sherman (D-CA) said digital currency makes no meritorious or helpful contributions to society that traditional currencies do not. He stressed that the strength and consistency of the dollar is vital to U.S. security and influence. He suggested prohibiting U.S. citizens from buying or mining cryptocurrencies. He expressed concern with the electricity use and carbon footprint of mining cryptocurrencies. He asserted that cryptocurrency as a medium of exchange only facilitates illegal purchases and tax evasion. He reiterated the importance of the profits collected due to the U.S. dollar's use as a foreign reserve currency.

House and Senate Receive Semi-Annual Monetary Policy Report

Key Points:

- *Federal Reserve Chair Jerome Powell suggested if the current trade negotiations result in fewer*

trade barriers that would be good for the economy but a prolonged trade war would be detrimental to the economy.

- *Powell stated that the Federal Reserve will be releasing a framework which outlines how systemic risk will be evaluated.*

On July 17 and 18, the Senate Banking Committee and the House Financial Services Committee held hearings to discuss the [Federal Reserve's Semi-Annual Monetary Policy Report to Congress](#). Federal Reserve Chairman Jerome Powell testified on the Semi-Annual Monetary Policy Report, as well as issues such as stress tests, wage growth, trade, and providing regulatory relief. Chairman Mike Crapo (R-ID) stated since the last hearing in March Congress passed with bipartisan support S. 2155. He stated by right sizing regulation the bill will improve access to capital. Ranking Member Sherrod Brown (D-OH), in a [statement](#), stated last week, the San Francisco Federal Reserve released a study finding that the “rosy” forecasts of the tax bill are likely “overly optimistic.” He stated the number of jobs created in 2017 was smaller than in each of the previous four years and some of the very companies that announced billions in buybacks and dividends are now announcing layoffs, shutting down factories, and offshoring more jobs. Chairman Jeb Hensarling (R-TX) expressed concern with a global trade war and the slow transition to normal monetary policy. Ranking Member Maxine Waters (D-CA) expressed concern with the impact of “reckless” economic policies from the Trump Administration and specifically criticized starting a trade war.

Members of both Committees raised concern over the recent trade negotiations and tariffs being imposed. Federal Reserve Chair Jerome Powell explained that he tries to stay “in his lane” which does not include trade. He suggested that if the end result of these trade

negotiations is less barriers to trade than that would be a good outcome. However, he noted that a prolonged trade war would be bad for the economy. Several Representatives noted the change in the systemically important financial institution (SIFI) designation threshold contained in the Economic Growth, Regulatory Relief and Consumer Protection Act. Powell stated that the Federal Reserve will put forth a proposal which outlines how systemic risk will be evaluated. He explained the Federal Reserve will account for the size, complexity, interconnectedness and nature of activities in order to tailor regulations. When asked by Members about the GSEs, Powell suggested that it is time for Congress to take action on housing finance reform. He stated that housing finance reform is a big unfinished business from the financial crisis. Several Senators noted the proposals to change the CCAR stress test process. Powell stated the stress tests this past cycle were the most stringent thus far. He explained that stress tests will remain an important component of Federal Reserve oversight.

SEC Approves Proposals Related to Rule 701 and ATS

Key Points:

- *The SEC voted unanimously to approve an amendment to Rule 701(e), mandated by the Economic Growth, Regulatory Relief, and Consumer Protection Act, to increase the reporting threshold for compensatory securities offerings.*
- *The SEC also unanimously voted to approve amendments to increase the transparency and oversight of alternative trading systems (ATS).*

At a July 18, open meeting the Securities and Exchange Commission (SEC) voted unanimously to “adopt an [amendment](#) to Rule 701(e), as mandated by the Economic Growth, Regulatory Relief, and Consumer Protection

Act”; “issue a concept release requesting comment on potential revisions to Rule 701 and Form S-8”; and “adopt amendments to Rule 3a1-1 and Regulation ATS and new Form ATS-N under the Securities Exchange Act of 1934 related to certain alternative trading systems”.

Related to Rule 701, the SEC adopted a rule that will “increase from \$5 million to \$10 million the aggregate sales price or amount of securities sold during any consecutive 12-month period in excess of which the issuer is required to deliver additional disclosures to investors.” In addition, the SEC will issue a Concept Release asking for input on ways to modernize compensatory securities offerings and sales. Chairman Jay Clayton, in a [statement](#), explained the amendment was mandated by the recently enacted Economic Growth, Regulatory Relief, and Consumer Protection Act (S. 2155). He suggested modernizing Rule 701 is a topic on which the Commission has received recommendations from the Commission’s Advisory Committee on Small and Emerging Companies, and they would benefit from comments from a broad range of constituencies.

The SEC also voted to adopt amendments to new Form ATS-N and amendments to Regulation ATS to enhance the transparency and oversight of alternative trading systems (ATS) that trade stocks. Under the amendments ATSd will be required to publicly disclose detailed information about their operations and the ATS-related activities of their broker-dealer operation. Chairman Clayton stated the U.S. equity markets have evolved substantially since Regulation ATS was adopted almost 20 years ago. He noted today, many NMS Stock ATSs actively compete with national securities exchanges for order flow, and operate with comparable speed and sophistication. Clayton explained the

recommendation will require NMS Stock ATSS to disclose information about, among other things, the activities of the operator of the ATS and its affiliates, its safeguards to protect confidential trading information, available order types, outbound routing practices, and fees. He noted that earlier this week, the Commission's Fixed Income Market Structure Advisory Committee (FIMSAC) recommended that the Commission review the regulatory framework for oversight of electronic trading platforms used in the municipal securities and corporate bond markets, and he explained he has asked the staff to conduct a review of this type, and provide a recommendation to the Commission concerning whether there are opportunities to enhance the framework for oversight of electronic trading platforms in fixed income markets.

Senate Banking Considers Nominations for the CFPB and Export-Import Bank

Key Point:

- *The Senate Banking Committee considered the nomination of Kathleen Kraninger to be Director of the CFPB and Kimberly Reed to be President of the Export-Import Bank.*

On July 19, the Senate Banking, Housing, and Urban Affairs Committee held a [hearing](#) on the nominations of Ms. Kathleen Laura Kraninger to be the Director-Designate for the Bureau of Consumer Financial Protection; and of Ms. Kimberly A. Reed to be the President-Designate for the Export-Import Bank of the United States. Chairman Mike Crapo (R-ID) said the two positions being considered today are important to consumers and for facilitating trade with allies around the globe. He noted that Kraninger has had a distinguished career in public service across multiple agencies. He noted Reed's prior positions in public service and suggested she is well positioned to perform well in her role at the U.S. Export-Import

Bank. Crapo noted that several Members have requested documents from Kraninger and he asserted that the requests go far beyond the Committee's process. Ranking Member Sherrod Brown (D-OH) argued that Kraninger has no experience in consumer protection. He said she has been involved in one disastrous policy after another. In regard to Reed, Brown said she is well qualified to lead the Bank.

Several Democrat Members raised concern over Kraninger's experience in consumer protection and her involvement in several Administration policies including the "zero tolerance" policy being used to separate children from their parents crossing the border. When asked about her involvement in these policies, Kraninger stated she would not comment on advice she has provided in her role at the OMB. Members from both parties expressed their support for Reed's nomination to lead the Export-Import Bank and the need to get the Bank fully operational. Senator Patrick Toomey (R-PA) suggested reforms to the Bank are needed. Reed stated she will work to improve the transparency of the Ex-Im Bank and work to ensure the Bank is not crowding out private capital.

UPCOMING EVENTS

July 24

SEC, HUD, OFR and GNMA Nomination Hearing:

The Senate Banking Committee will hold a hearing to consider the nominations of Mr. Elad L. Roisman, to be a Member of the Securities and Exchange Commission; Mr. Michael R. Bright, to be President of the Government National Mortgage Association (GNMA or Ginnie Mae); Ms. Rae Oliver, to be Inspector General of the Department of Housing and Urban Development; and Dr. Dino Falaschetti, to be Director of the Office of Financial Research, U.S. Department of the Treasury.

CFTC Nomination Hearing: The Senate Agriculture Committee will hold a hearing to discuss the nomination of Dan Michael Berkovitz to be a Member of the Commodity Futures Trading Commission (CFTC).

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

July 25

CFTC Agenda: The House Agriculture Committee will hold a hearing to discuss the upcoming agenda for the CFTC. CFTC Chairman Giancarlo is scheduled to testify at the hearing.

Capital Access: The Joint Economic Committee will hold a hearing entitled “The Innovation Economy, Entrepreneurship, and Barriers to Capital Access.”

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

Committee Reviews Interior and Energy Reorganization Proposal

Key Point:

- *On Thursday, the Senate Energy and Natural Resources Committee heard testimony from Department of Interior and Department of Energy officials on the Trump Administration’s Executive Branch reorganization plans.*

On July 19, the Senate Energy and Natural Resources Committee held a [hearing](#) entitled “Administration Reorganization and Modernization Proposals for DOE and DOI.”

In her [opening statement](#), Chairman Lisa Murkowski (R-AK), noted that in March, 2017 President Trump issued an [Executive Order](#) directing all federal agencies to examine strategies to reduce waste and inefficiencies, and improve accountability. She emphasized that the use of best practices at the Department of Energy (DOE) “seems logical.” She expressed concern however, over a recent [blueprint](#) created by the Office of Management and Budget (OMB) to reorganize the federal government. Murkowski remarked that the Department of Interior (DOI) serves as “Alaska’s landlord.” She noted that the Department has control of over 223 million acres of land in Alaska. She expressed support for the DOI in advancing better use of resources and policy decisions. She declared that it is a “worthy endeavor to look at the structures of our departments to determine how operationally they are working.” She encouraged increased streamlining and efficiency.

Ranking Member Maria Cantwell (D-WA) stated that efficiencies should always be “strived for” but asserted that the Administration’s proposals are “very troubling.” She complained that the DOI and the DOE seem to be intent on fixing problems that do not exist “instead of solving the ones that do.” She emphasized that some proposals from the Administration are “downright dangerous”, citing proposals to sell off transmission from the Bonneville Power Administration (BPA) and the Tennessee Valley Authority (TVA). She said these entities serve consumers in 33 states. Cantwell emphasized that selling off BPA assets would raise electricity rates and “throttle the Northwest economy.” Cantwell also contended that the proposal does not meaningfully address the issue of cyberattacks. She added that many areas of the energy grid are under constant attack and DOE must do more to

respond. She emphasized that the energy grid should be considered the number one priority in cybersecurity, and called for a doubling of cybersecurity funding.

In her testimony, Department of Interior Senior Advisor Susan Combs contended that the federal government operates with an outdated and inflexible infrastructure. She added that Americans are “rightly frustrated with this lack of efficiency, effectiveness, and responsiveness.” She said that in March, 2017 the OMB was directed to improve the functionality of the Executive Branch. She told the Committee that the DOI has ten bureaus with “wide ranging missions” and this structure creates confusion among stakeholders. She said the Secretary supports more centralized coordination within this structure. Combs declared that the ultimate goal of the proposal is to make the federal government more responsive and accountable.

Bernard McNamee, Executive Director of the Office of Policy, U.S. Department of Energy, stated that in December, 2017 Secretary of Energy Rick Perry announced his intention to realign and modernize DOE. He said the plan is aimed at realigning program offices under efficient reporting frameworks which would advance the Administration’s policy priorities, address future energy challenges, and refocus DOE on its core missions. He added that these missions include ensuring U.S. energy security, spurring new innovation, reducing regulatory burdens, restoring nuclear enterprises, and addressing the issues related to legacy management and nuclear waste. He stated that the modernization proposal included the creation of separate offices for the Under Secretary of Energy and the Under Secretary for Science. McNamee added that DOE has created the Office of Cybersecurity, Energy Security, and Emergency Response (CESER). He said that several DOE leadership positions

are still vacant, including the Director of Science, Assistant Secretary for CESER, Assistant Secretary for the Office of Energy Efficiency and Renewable Energy (EERE), and the DOE Inspector General. McNamee testified that the proposal will also streamline environmental headquarters organizations, consolidate international affairs staff, merge resource service centers, and restrict the Office of Science in order to reduce costs.

Legislative Developments

Congressional activity on energy policy this week included:

- On Wednesday, Senator John Barrasso (R-WY) introduced the “Energy Security Cooperation with Allied Partners in Europe Act” ([S. 3229](#)). As described in a Senate floor speech by Barrasso, the bill: “directs our representative at NATO to work to achieve energy security for our partners throughout Europe and Eurasia”; “calls for a comprehensive strategy that involves increasing American energy exports to these countries that are being held hostage by Russia”; “requires the energy secretary to speed up approvals of American natural gas exports to our NATO allies and other countries”; and “authorizes mandatory U.S. sanctions on the development of Russian energy pipelines like Nord Stream II.”
- The House Energy and Commerce Committee approved the “Advancing U.S. Civil Nuclear Competitiveness and Jobs Act” ([H.R. 6351](#)) by a [33-16 vote](#).
- On Thursday, the House of Representatives approved, by a [229-180 vote](#), a resolution expressing “the sense of Congress that a carbon tax would be detrimental to American families and businesses, and is not in the best

interest of the United States”
([H.Con.Res. 119](#)).

Regulatory Developments

Energy and environment regulatory actions this week included:

- On Tuesday, the Environmental Protection Agency (EPA) published a [notice](#) titled “Proposed Information Collection Request; Comment Request; Application Requirements for the Approval and Delegation of Federal Air Toxics Programs to State, Territorial, Local, and Tribal Agencies.” Public comments on the Information Collection Request are due by September 17, 2018.
- On Wednesday, the Federal Energy Regulatory Commission (FERC) published a [comment request](#) titled “Commission Information Collection Activities (FERC-725E); Comment Request; Revision.” FERC is “submitting its information collection...[on] Mandatory Reliability Standards for the Western Electric Coordinating Council...to the Office of Management and Budget (OMB) for review...” Comments must be submitted by August 17, 2018.
- On Thursday, the Pipeline and Hazardous Materials Safety Administration (PHMSA) announced that it reached an agreement with the Federal Energy Regulatory Commission (FERC) “to develop a Memorandum of Understanding (MOU) that would refine and shorten the permit application review process for proposed Liquefied Natural Gas (LNG) facilities.” According to PHMSA, “[t]he MOU will clarify each agency’s respective role in the permitting process for potential LNG projects,

and implement procedures into the FERC’s authorization process that will leverage PHMSA’s safety expertise to evaluate potential impact to public safety.”

- On Thursday, the Federal Energy Regulatory Commission (FERC) held its monthly open meeting. Among the Commission’s actions during the meeting was approval of the [final rule](#) directing the “North American Electric Reliability Corporation (NERC) to develop and submit modifications to the NERC Reliability Standards to augment the mandatory reporting of Cyber Security Incidents, including incidents that might facilitate subsequent efforts to harm the reliable operation of the bulk electric system (BES).”

Upcoming Hearings and Events

July 24

Nominations: The Senate Energy and Natural Resources Committee will hold a [business meeting](#) to vote on the following nominations: Teri Donaldson to be Inspector General of the Department of Energy; Karen Evans to be an Assistant Secretary of Energy (Cybersecurity, Energy Security and Emergency Response); Christopher Fall to be Director of the Office of Science, Department of Energy; and Daniel Simmons to be an Assistant Secretary of Energy (Energy Efficiency and Renewable Energy).

Oil Prices: The Senate Energy and Natural Resources Committee will hold a [hearing](#) “to examine factors that are impacting global oil prices”. Scheduled witnesses are: John Auers, Executive Vice President, Turner, Mason & Company; Jason Bordoff, Founding Director, Center on Global Energy Policy, Columbia University; Russell “Rusty” Braziel, President

and Chief Executive Officer, RBN Energy, LLC; Robert McNally, Founder and President, Rapidan Energy Group; Keisuke Sadamori, Energy Markets and Security Director, International Energy Agency.

Strategic Petroleum, Reserve: The House Energy and Commerce Committee’s Energy Subcommittee will hold a [hearing](#) on [draft legislation](#) to “authorize the Secretary of Energy to carry out a program to lease underutilized Strategic Petroleum Reserve facilities...” Scheduled witnesses are: Steven Winberg, Assistant Secretary of Energy for Fossil Energy; Kevin Book, Managing Director, ClearView Energy Partners; Daniel Evans, Project Manager, Fluor Federal Petroleum Operations; and Frank Rusco, Director, Natural Resources and Environment, Government Accountability Office.

Alternative Uses of Coal: The House Natural Resources Committee’s Energy and Mineral Resources Subcommittee will hold a [hearing](#) on “Assessing Innovative and Alternative Uses of Coal”.

July 25

Renewable Fuel Standard and Renewable Identification Numbers: The House Energy and Commerce Committee’s Environment Subcommittee will hold a [hearing](#) entitled “Background on Renewable Identification Numbers under the Renewable Fuel Standard.”

Puerto Rico Energy: The House Natural Resources Committee’s Energy and Mineral Resources Subcommittee will hold a [hearing](#) on “Management Crisis at the Puerto Rico Electric Power Authority and Implications for Recovery”.

August 23

Pipeline Safety Information-Sharing: The Pipeline and Hazardous Materials Safety

Administration (PHMSA) will convene a [meeting](#) of its Voluntary Information-Sharing Working Group. The meeting is “to discuss and identify recommendations to establish a voluntary information-sharing system.”

September 11-12

Pipeline Safety Research and Development: The Pipeline and Hazardous Materials Safety Administration (PHMSA) will hold a “[Pipeline Safety Research and Development Forum](#)”.

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

HEALTH

FDA Announces New Work Group on Importation Policy

Key Point:

- *The Food and Drug Administrations announced the formation of a work group to examine importation of drugs to address challenges in accessing sole-source medicines with limited patient availability.*

On July 19, the Food and Drug Administration (FDA) announced it was forming a new work group to explore additional market competition for sole-source drugs that create significant barriers to and threaten patient access. The FDA suggested these conditions could include dislocations in the supply chain or significant price increases. It noted these are cases with no blocking patents or exclusivities associated with the drug.

The FDA will examine whether under these unique circumstances, additional market competition from short-term important of

foreign versions of a drug may complement FDA's existing efforts to support patient access and help meet immediate patient needs. The work group will explore various policy frameworks. The FDA will consider whether and how the foreign versions of these drugs can be imported with adequate assurances of safety and effectiveness. The work group will consider a number of things including:

- The necessary statutory and regulatory requirements for such a policy;
- How the FDA will define access dislocation;
- How the FDA will evaluate the public health need for access to a foreign-approved drug;
- How the FDA will assess the safety, effectiveness, and labeling of a foreign-approved drug; and
- How the FDA can ensure it continues to protect patient safety through a secure drug supply chain and pursue enforcement against unsafe and illegal products.

The FDA stressed any policy involving importation would be temporary until adequate competition entered the market as well as narrowly tailored to not create the same risks of counterfeits getting in the U.S. supply chain as a broader importation policy would present.

Committees Continue Hearings on Health Care Costs

Key Points:

- *The Senate Health, Education, Labor and Pensions Committee held a hearing focused on ways to reduce excess spending in health care.*
- *The House Energy and Commerce Committee held hearing discussing ways to improve transparency in health care costs.*
- *The House Ways and Means Committee held a hearing examining for current laws aimed at*

protecting Medicare may actually be obstacles to value-based care.

On July 17, the Senate Health, Education, Labor and Pensions Committee held a hearing entitled "Reducing Health Care Costs: Eliminating Excess Health Care Spending and Improving Quality and Value for Patients." Topics discussed in the hearing included, but were not limited to: (1) solutions to waste and complexity in the health care system; (2) addressing prescription drug spending; (3) steps the federal government can take to help reduce health care costs; and (4) addressing the needs of patients with chronic conditions.

Chairman Lamar Alexander (R-TN) contended wasteful spending can come from not spending enough on preventative care. He called for finding ways to maximize the quality of care patients receive by examining which procedures, tests, and medications are really necessary. Ranking Member Patty Murray (D-WA) stated Democrats are still interested in finding bipartisan solutions to reduce skyrocketing health care costs families are struggling to pay. Testimony focused on ways to increase value and reduce wasteful treatment and testing in health care. Several mentioned programs aimed at helping those with chronic diseases.

On July 17, the House Energy and Commerce Committee's Oversight and Investigations Subcommittee held a hearing entitled "Examining State Efforts to Improve Transparency of Health Care Costs for Consumers." Topics discussed included, but were not limited to: (1) State Transparency Initiatives; (2) Does Increased Transparency Reduce Cost; (3) ERISA; (4) Drug Pricing; (5) Alternative Payment Models; and (6) Consolidation in the Healthcare Market.

Chairman Gregg Harper (R-MS) said health care costs continue to rise, and many Americans will not even be able to find out how much something costs before they receive care. He recommended Congress examines ways it can increase transparency. Representative Kathy Caster (D-FL) said increased transparency can theoretically provide consumers with more information to make their choices and predict their costs. She noted many states have attempted to increase transparency, all with a great deal of difficulty and mixed results.

On July 17, the House Ways and Means Committee, Health Subcommittee held a hearing entitled “Modernizing Stark Law.” Topics discussed included: (1) Stark Law Reform; (2) The Affordable Care Act; (3) The Anti-Kickback Statute; (4) Healthcare of Migrants Held in Detention Centers; and (5) Alternative Payment Methods.

Representative Adrian Smith (R-NE), speaking on behalf of Chairman Pete Roskam (R-IL), suggested certain laws created in order to protect the Medicare program now act as obstacles to value based care, including the Physician’s Self-Referral law also known as the Stark Law. Ranking Member Sandy Levin (D-MI) cautioned self-referrals have a negative effect on care as evidence by a study conducted by the Government Accountability Office which found exemptions in the law permitting self-referral for in-office insular services directly increased overutilization and increased Medicare spending. Witnesses discussed ways modifications to existing laws could support movement away from the fee-for-service model.

Upcoming Hearings and Meetings

July 24

Substance Use Treatment: The House Energy and Commerce Committee will hold a hearing on “Examining Advertising and Marketing Practices within the Substance Use Treatment Industry.”

Opioids: The House Ways and Means Committee will hold a hearing on “The Opioid Crisis: Implementation of the Family First Prevention Services Act (FFPSA).”

July 25

Cures: The House Energy and Commerce Committee will hold a hearing on “21st Century Cures Implementation: Updates from FDA and NIH.”

Health Legislation: The Senate Health, Education, Labor and Pensions Committee will hold a markup of S. 2554, the “Patient Right to Know Drug Prices Act”; H.R.1222, the “Congenital Heart Futures Reauthorization Act of 2017”; S. 2465, the “Sickle Cell Disease Research, Surveillance, Prevention, and Treatment Act of 2018”; and S. 3016, the “Action for Dental Health Act of 2018.”

Health Care Policy: The Bipartisan Policy Center will hold a discussion on “The Future of Health Care: Where Does the Bipartisan Path Lead?”

Opioids: The Hudson Institute will hold a discussion on “Combating the Opioid Epidemic: Finding Alternatives in Pain Management.”

July 26

MACRA: The House Energy and Commerce Committee will hold a hearing on “MACRA (Medicare Access and CHIP Reauthorization Act) and MIPS (Merit-Based Incentive

Payment System): An Update on the Merit-based Incentive Payment System.”

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.

TRADE

Industry, Congress Push Back Against Section 232 Automobile Investigation

Key Points:

- Witnesses at a Section 232 hearing questioned whether automobile and auto part imports are related to national security and argued tariffs would increase costs for consumers.
- A bipartisan group of 149 House members wrote a [letter](#) to Commerce Secretary Wilbur Ross urging him to abandon the 232 automobile investigation.
- Auto industry representatives, including those from Global Automakers and the American International Automobile Dealers Association, held two lobbying days on Capitol Hill this week.

President Donald Trump’s proposal to place tariffs of 25 percent on imported autos and auto parts received near-unanimous condemnation Thursday as automakers, dealers, part suppliers and foreign allies each stepped up to warn against it, saying it will hurt production and cost jobs. A representative of the United Auto Workers union was the lone witness voicing support, saying that the investigation was “long overdue.”

At the beginning of a hearing on the Section 232 investigation into automobile and auto part imports, Secretary Ross explained that the

Commerce Department has not completed its investigation: “It is too early now to say if this investigation will ultimately result in Section 232 recommendations on national security grounds. The department did recommend action in our investigations of steel and aluminum imports, but each industry is different.” Witnesses took turns questioning the investigation’s national security justification and warning that tariffs would increase costs to consumers, lead to retaliation, and destroy supply chains. Meanwhile, government officials suggested import penetration could be stifling U.S. innovation related to automobiles.

In Congress, a group of 149 House members expressed opposition to the investigation in a letter to Secretary Ross: “Our nation’s automotive industry is a critical driver of the American economy... It depends on a vast and complex network of suppliers to build vehicles, a large dealer network to sell them, and a substantial retail and aftermarket industry to supply repair and replacement parts... in some parts of the industry, employment is actually higher than pre-recession levels. However, imposing tariffs, quotas, or other restrictions... threatens to undo that momentum... the taxpayer dollars being used by the Commerce Department for this investigation would be better spent on other endeavors. We do not believe that imports... pose a national security threat.” Lawmakers also met with automobile industry representatives this week after seven major auto industry associations [wrote a letter](#) urging President Trump not to impose tariffs on automobile and auto part imports.

Commerce Secretary Wilbur Ross has until next February to wrap up the so-called Section 232 national security investigation and make a recommendation to Trump, who can accept it, change it or reject it entirely. However, in previous remarks Secretary Ross has said that

he would like to conclude the investigation in the coming weeks.

Commerce Initiates Section 232 National Security Investigation on Uranium

Key Point:

- The Commerce Department on Wednesday initiated a Section 232 investigation into the national security effects of uranium imports after requests from two American mining companies.

Commerce Secretary Wilbur Ross in [statement](#) explained the Commerce Department's rationale for initiating an investigation into the national security implications of uranium imports: "Our production of uranium necessary for military and electric power has dropped from 49 percent of our consumption to five percent." Secretary Ross also sent a [letter](#) to Defense Secretary James Mattis to inform him that Commerce will be consulting with the Department of Defense throughout the investigation. The decision to begin the investigation follows a January 17, 2018 petition from UR-Energy and Energy Fuels. Commerce has explained the following factors prompted the investigation: (1) uranium powers 99 U.S. nuclear reactors that produce 20 percent of the electricity for the U.S. electric grid; (2) uranium is a required component of the nuclear arsenal and the Navy's fleet of submarines and aircraft carriers; (3) uranium production has dropped to only five percent of U.S. requirements; (4) the two petitioners, accounting for over half of all uranium mined in the U.S., have laid off half their workforce over the last two years and operate around 10 percent of capacity; and (5) closed mines take years to reopen.

Uranium is one of the elements included on the Interior Department's [final list](#) of 35 critical minerals. Some members of Congress believe this list could generate more Section 232 investigations, especially considering China is a leading producer of 19 of the 35 minerals. Members of the Senate Energy and Natural Resources Committee in a hearing this week expressed concern that China could limit its exports of these critical minerals to the U.S. in retaliation against upcoming tariffs.

Lighthizer to Meet with Mexico's Top Trade Official Next Week

Key Point:

- U.S. Trade Representative (USTR) Robert Lighthizer and Mexican Economy Secretary Ildefonso Guajardo will meet in Washington, DC next week; Trump signals U.S. may pursue separate trade deal with Mexico.

With North American Free Trade Agreement (NAFTA) negotiations stalled since May, USTR Lighthizer and Mexican Economy Secretary Ildefonso Guajardo are scheduled to meet on July 26. This will be the first meeting between the two since Andrés Manuel López Obrador (AMLO) was elected president earlier this month. During a cabinet meeting, President Trump reiterated his openness to bilateral deals: "We've had very good sessions with Mexico and with the new president of Mexico, who won overwhelmingly... We may do separately with Mexico and we'll negotiate with Canada at a later time."

White House Press Secretary Sarah Sanders, asked whether trilateral talks and separate Canadian talks were off the table, said: "We're continuing both of those tracks. We see a lot of progress on the conversations with Mexico, and if we could make a bilateral deal with them,

we're certainly very happy to do that. But, again, we're continuing both conversations, both tracks."

It should be noted that Minister Freeland is not scheduled to attend, though a spokesman of hers downplayed the possibility of bilateral agreements: "There have been regular bilateral engagements between the three NAFTA countries in the context of these trilateral negotiations and we expect that to continue."

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.