November 30, 2018

Washington Update

This Week in Congress

- **House** – The House passed H.R. 5273, the **Global Fragility and Violence Reduction Act of 2018**; H.R. 6207, the **Democratic Republic of the Congo Democracy and Accountability Act of 2018**; H.R. 7187, the **National Flood Insurance Program Further Extension Act** and H.R. 6901, the **Federal CIO Authorization Act of 2018.**

- **Senate** – The Senate passed H.R. 5317, **Alcohol Manufacturing on Indian Lands**; H.R. 1074, **Sac and Fox Indian Reservation**; H.R. 3946, **Ray Hendrix Veterans Clinic**; H.R. 3661, **75th Anniversary of World War II program**; H.R. 1918, **Nicaraguan Investment Conditionality Act of 2017**; H.R. 3628, 6-month extension of the National Flood Insurance Program and confirmed **Stephen Alexander Vaden** to be General Counsel of the Department of Agriculture as well as several nominations by consent, which can be found here.

Next Week in Congress

- **House** – The House is expected to consider H.R. 88, the **Retirement, Savings, and Other Tax Relief Act of 2018**.

- **Senate** – The Senate is expected to consider the nomination **of Bernard L. McNamee** to be a Member of the Federal Energy Regulatory Commission and **Mitchell Zais** to be Deputy Secretary of Education.

TAX

House Introduces New Retirement, Savings, and Other Tax Relief Act of 2018

Key Points:

- *The bill, introduced by House Ways and Means Committee Chairman Kevin Brady, would reform the IRS, retirement savings accounts, and also includes technical corrections for the Tax Cuts and Jobs Act*
- *With zero Democratic support and lingering questions from certain House Republicans, the path forward remains unclear in the House*
- *The Senate may craft its own bill that garners more bipartisan consensus*

This past week, House Ways and Means Committee Chairman Kevin Brady (R-TX) introduced the Retirement, Savings, and Other Tax Relief Act of 2018. The bill, which the

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Congressional Budget Office estimated would cost $55 billion over the next decade, would reform the Internal Revenue Service (IRS), retirement savings accounts, and also includes disaster tax relief provisions. The proposed legislation also includes technical corrections to the deduction for qualified business income and the net operating loss deduction, and retroactively extends 24 tax provisions through 2018 – including credits for two-wheeled plug-in electric vehicles, and Native American employment, and mine rescue team training. In addition, the bill would also extend rates for the oil liability trust fund and the excise tax that funds the black lung disability trust fund.

Chairman Brady contended that the five fixes included in the bill were chose because they "have the broadest impact, they have the broadest support." Senate Finance Committee Chairman Orrin Hatch (R-UT) commended the House efforts and added that he is "currently reviewing the proposal in its entirety" and looks forward to "consulting with Finance Committee members to determine the next steps." However later in the week there were suggestions the Senate Finance Committee might try to to find its own consensus and craft its own bill.

Yesterday the House voted on party lines on a rule for debate of the tax package (219-181). While party-line votes are typically standard for rule votes, there are some signs that the tax bill would receive zero Democratic support. In addition, some Republicans are not in Washington while others may or may not support the final package, depending on whether more and other priorities are added. Due to these developments, the Republican House Leadership pulled the bill from the House floor schedule and it is unclear if it will be brought up next week. Due to the complications in the House, there have been some indications that the Senate Finance Committee will try to find consensus and craft its own bill. A section-by-section summary of the House bill is attached along with an additional summary.

Internal Revenue Service Releases Proposed Regulations on Foreign Tax Credits and Business Interest Expense Deduction Limit

Key Points:

- *The IRS issued proposed regulations on foreign tax credits for businesses and individuals that addresses questions from the recently passed Tax Cuts and Jobs Act. The regulations would make changes to the allocation and apportionment of deductions under section 861 through 865. The proposal also makes changes to the passive category for high-taxed income, export financing interest, and financial services income*
- *The IRS also released proposed regulations on the business interest expense deduction limit, providing general rules and rules for calculating the limitation in consolidated group, partnership, and international contexts and also withdraws proposed regulations on the disallowance of a deduction for some interest paid or accrued by a corporation*

Earlier this week, the Internal Revenue Service (IRS) issued proposed regulations on foreign tax credits for businesses, primarily on allocation rules and related top GILTI. The Tax Cuts and Jobs Act (TCJA), passed in December 2017, made significant changes to the way the United States taxes foreign activities. The new proposed regulations address the allocation and apportionment of deductions under section 861 through 865. In addition, the proposal revises section 904 rules to reflect pre-TCJA statutory amendments. The regulations also make changes to the passive category for high-taxed income, export financing interest, and financial services income. Specifically, the regulations help address the calculation of the exception from subpart F income for high-taxed income under section 954(b)(4) and the application of the section 965(n) election. The changes that relate to stator amendments made by the TCJA apply to tax years beginning after December 22, 2017.

Also this week, the IRS issued proposed "163(j)" regulations on the business interest expense deduction limit, providing general rules and rules for calculating the limitation in consolidated group, partnership, and international contexts and withdrawing proposed regulations on the disallowance of a deduction for some interest paid or accrued by a corporation. The IRS has scheduled a hearing for February 25, 2019. The proposed regulation limit an individual's deduction for business interest expense to the sum of the taxpayer's current-year business interest income, 30 percent of the taxpayer's adjusted taxable income, and some floor plan financing interest expense. The regulations also state that any amount of business interest expense that cannot be deducted due to the section 163(j)(1) limitation can be carried forward and treated as business interest expense in future years. The regulations are proposed to be effective for tax years ending after the date they are finalized.

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

Congress Passes Short-Term NFIP Extension

Key Point:

- *Congress passed a bill to extend the authorization for the NFIP by one week to December 7, 2018.*

On November 29, the Congress passed the National Flood Insurance Program Further Extension Act (H.R. 7187), which extends the authorization for the National Flood Insurance Program (NFIP) by one week to December 7, 2018. The bill passed the House by a vote of 350-46, after which the Senate passed it by voice vote. The NFIP's authorization had been set to expire on November 30.

The extension to December 7 aligns the NFIP's expiration date with that of the federal government's spending authority. It is expected that a further extension of the NFIP will be included in an end of the year spending package.

Senate Invokes Cloture on CFPB Director Nomination

Key Point:

- *The Senate invoked cloture on the nomination of Kathy Kraninger to be Director of the CFPB by a vote of 50-49, setting up a confirmation vote next week.*

On November 29, the Senate invoked cloture on the nomination of Kathy Kraninger to be Director of the Consumer Financial Protection Bureau (CFPB) for a five year term by a vote of 50-49. The Senate Banking Committee favorably reported Kraninger's nomination on August 23 by a 13-12 vote. The Senate invoking cloture sets up a final vote on Kraninger's confirmation next week.

Federal Reserve Issues First Financial Stability Report

Key Point:

- *The report presented the Federal Reserve's assessment of the resilience of the U.S. financial system.*

On November 28, the Federal Reserve released its first "Financial Stability Report", which summarizes the Board's "framework for assessing the resilience of the U.S. financial system and presents the Board's current assessment." The report focuses on "vulnerabilities" and emphasizes four broad categories: elevated valuation pressures; excessive borrowing by businesses and households; excessive leverage within the financial sector; and funding risks in the financial system.

The report also highlighted several near-term risks to the financial system: (1) the "Brexit and euro-area fiscal challenges pose risks for U.S. markets and institutions"; (2) "problems in China and other emerging market economies could spill over to the United States"; and (3) "Trade tensions, geopolitical uncertainty, or other developments could make investors more averse, in general, to taking risks."

Senate Banking Discusses Money Laundering and Illicit Finance

Key Points:

- *Ranking Member Sherrod Brown (D-OH) noted in 2015 the Treasury reported that money laundering related to fraud, drug trafficking and other forms of illicit finance generated $300 billion annually.*
- *FinCEN Director Kenneth Blanco stressed the need for a universal beneficial ownership rules.*

On November 29, the Senate Banking Committee held a hearing entitled "Combating Money Laundering and Other Forms of Illicit Finance: Regulator and Law Enforcement Perspectives on Reform." Chairman Mike Crapo (R-ID) their goal is to find ways to more effectively target money laundering and illicit finance while imposing the least burden on the industry. He stated that they have heard from industry and regulators about issues like information sharing, enhancing Suspicious Activity Reports (SARs), and requiring the collection of beneficial ownership information at the time of incorporation. He stressed that there is strong bipartisan support for updating the current BSA/AML regime, though they have not yet settled on a particular reform or fix. Ranking Member Sherrod Brown (D-OH) said huge amounts of laundered funds continue to flow through the U.S. financial system. He noted that in 2015 Treasury reported that money laundering related to fraud, drug trafficking and other forms of illicit finance generated $300 billion annually. He stressed the need to strengthen and update the AML regime, including by imposing tough beneficial ownership rules. He said the Committee has looked at ways to reduce reporting burdens on small and community banks, but suggested that this may not make sense in this area. He suggested that money launderers will migrate to smaller banks as necessary to hide their crimes. He said small banks play a major role in monitoring and deterring illicit finance activity. Brown commended FinCEN for reviewing its body of BSA data with an eye towards possible changes. He noted that Committee staff has been told by FinCEN and the FBI that increasing currency transaction report thresholds to the levels in House Republican legislation would eliminate around 80 percent of the data available to law enforcement.

Chairman Mike Crapo (R-ID) asked whether FinCEN supports the OCC recommendation that all the agencies involved work together under an Economic Growth and Regulatory Paperwork Reduction Act (EGRPRA) type process. FinCEN Director Kenneth Blanco expressed his opposition to that recommendation suggesting that adding an additional layer of bureaucracy is not necessary. Grovetta Gardineer (OCC) stated it would be useful for FinCEN and stakeholders to participate in a notice and comment like process. Several Members noted the need for beneficial ownership legislation. Blanco stated that beneficial ownership information is critical for investigations that FinCEN and the FBI conduct. He stated that the cost of gathering this information is an "investment" in national security. Steven D'Antuono (FBI) suggested that beneficial ownership information is critical for law enforcement. He suggested that if it is not an "across the board" rule then bad actors will simply move to those areas not focused on. Gardineer suggested the goals of the beneficial ownership rule are "noble" but she suggested there are issues with the implementation and the fact that there is no uniform way to collect the information.

When Senators asked about proposals to increase the thresholds for Currency Transaction Reports (CTRs) and Suspicious Activity Reports (SARs), Blanco stated that if the threshold is raised to the amount in the House legislation, approximately 80 percent of the data they current receive would be lost. He noted FinCEN is currently looking at the data they collect to ensure it is effective.

UPCOMING EVENTS

December 4

Market Risk Advisory Committee: The Commodity Futures Trading Commission (CFTC) will hold a meeting of its Market Risk Advisory Committee (MRAC). The agenda for the meeting includes panels on: (1) the current state of clearinghouse risk management and governance and what lies ahead; (2) the management of non-default losses by clearinghouses in recovery and resolution; (3) recent reports and discussion papers on central clearing by global standard setting bodies; and (4) the oversight of third-party service providers/vendor risk management.

December 5

Federal Reserve: The Joint Economic Committee will hold a hearing to receive testimony from Federal Reserve Board Chairman Jerome Powell.

Fannie Mae and Freddie Mac: The Senate Banking Committee will hold a hearing entitled "Oversight of Pilot Programs at Fannie Mae and Freddie Mac." The witnesses at the hearing will be Sandra Thompson, Deputy Director, Division of Housing Mission and Goals, Federal Housing Finance Agency; Hugh Frater, Interim Chief Executive Officer, Fannie Mae; and Donald Layton, Chief Executive Officer, Freddie Mac.

National Debt: The House Financial Services Committee will hold a hearing entitled "The National Debt: Washington, We Have a Spending Problem."

FHA Oversight: The House Financial Services Committee's Subcommittee on Housing and Insurance will hold a hearing on "Oversight of the Federal Housing Administration." Brian D. Montgomery, Assistant Secretary for Housing, Federal Housing Commissioner, U.S. Department of Housing and Urban Development will testify at the hearing.

SEC Open Meeting: The Securities and Exchange Commission (SEC) will hold an open meeting to consider three items: (1) whether to issue a Request for Comment on the nature and content of quarterly reports and earnings releases issued by reporting companies; (2) whether to adopt Rule of Practice 194 pursuant to Section 15F(b)(6) of the Securities Exchange Act of 1934; and (3) whether to propose rules under Section 15F(i)(2) of the Securities Exchange Act of 1934 that would require security-based swap dealers and major security-based swap participants to comply with certain risk mitigation techniques with respect to portfolios of security-based swaps not submitted for clearing to a central counterparty.

December 6

Municipal Securities: The SEC will hold an event entitled "The Road Ahead: Municipal Securities Disclosure in an Evolving Market." The event will include panels on: (1) Financial Distress and Municipal Securities Disclosure; (2) Lessons from Municipal Securities Disclosure Enforcement Actions; (3) Recent Developments in Disclosure Technology; and (4) What's Next for Disclosure?.

CFPB Advisory Committees: The Consumer Financial Protection Bureau (CFPB) will hold its winter 2018 Advisory Committee conference call. The call will include section on: (1) Emerging issues: Artificial intelligence in consumer financial services; and (2) Consumer access to financial records.

Proxy Process: The Senate Banking Committee will hold a hearing entitled "Proxy Process and Rules: Examining Current Practices and Potential Changes." The witnesses at the hearing will be Daniel M. Gallagher, Chief Legal Officer, Mylan N.V., and former Commissioner, U.S. Securities and Exchange Commission; Michael Garland, Assistant Comptroller, Corporate Governance and Responsible Investment, Office of the Comptroller, New York City; and Thomas Quaadman, Executive Vice President, U.S. Chamber Center for Capital Markets Competitiveness.

Housing Finance: The House Financial Services Committee will hold a hearing entitled "A Legislative Proposal to Provide for a Sustainable Housing Finance System: The Bipartisan Housing Finance Reform Act of 2018."

December 11

SEC Oversight: The Senate Banking Committee will hold a hearing entitled "Oversight of the U.S. Securities and Exchange Commission." SEC Chairman Jay Clayton will testify at the hearing.

December 12

SEC Government-Business Forum: The SEC will hold its annual Government-Business Forum on Small Business Capital Formation at the Ohio State University Max M. Fisher College of Business.

International Financial Institutions: The House Financial Services Committee's Subcommittee on Monetary Policy and Trade will hold a hearing entitled "Evaluating the Effectiveness of the International Financial Institutions." David Malpass, Under Secretary for International Affairs, U.S. Department of the Treasury will testify at the hearing.

December 13

Investor Advisory Committee: The SEC will hold a meeting of its Investor Advisory Committee. The agenda for the meeting includes a discussion regarding disclosures on human capital (which may include a recommendation from the Investor as Owner Subcommittee); a discussion regarding disclosures on sustainability and environmental, social, and governance (ESG) topics; a discussion regarding unpaid arbitration awards; subcommittee reports; and a nonpublic administrative work session during lunch.

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

EPA Issues 2019 Renewable Fuels Mandate

Key Points:

- *Today, the EPA issued the final rule establishing the Renewable Fuel Standard requirements for blending ethanol and other biofuels into the nation's transportation fuel supply.*
- *The final volume requirements include some incremental increases from the proposed rule released last summer, but are below the statutory levels established by Congress.*
- *The EPA has used its waiver authority to set the RFS below statutory benchmarks for the last few years.*

On Friday, the Environmental Protection Agency (EPA) released the [final rule] titled "Renewable Fuel Standard Program: Standards for 2019 and Biomass-Based Diesel Volume for 2020". The rule "establishes the annual percentage standards for cellulosic biofuel, biomass-based diesel, advanced biofuel, and total renewable fuel that apply to gasoline and diesel transportation fuel produced or imported in the year 2019." The Renewable Fuel Standard (RFS) establishes the requirements for blending biofuels, including ethanol, advanced biofuels and cellulosic biofuels into the transportation fuel supply. Congress enacted the RFS in the "Energy Policy Act of 2005" (P.L. 109-58) and expanded and extended the requirements in the "Energy Independence and Security Act of 2007" (P.L. 110-140).

The EPA published the Notice of Proposed Rulemaking (NPRM) for the 2019 RFS on July 10, 2018. In the NPRM, the agency noted that it utilized the "statutory waiver authority that is available when the projected cellulosic biofuel production volume is less than the applicable volume specified in the statute…[to propose] volume requirements for cellulosic biofuel, advanced biofuel, and total renewable fuel that are below the statutory volume targets."

The final 2019 volumes are as follows:

	Final 2018	Proposed 2019	Final 2019
Cellulosic Biofuel	.288	.381	.418
Biomass Based Diesel	2.1	2.1 (set by prior rule)	2.1
Advanced Biofuel	4.29	4.88	4.92
Total Renewable Fuel	19.29	19.88	19.92
In billions of gallons.			

U.S. Climate Assessment Released

Key Points:

- *Last week, a federal interagency organization issued the fourth in a series of "Climate Assessments".*
- *The Assessment acknowledges recent progress in reducing U.S. greenhouse gas emissions but warns of serious economic and environmental consequences without further reductions.*

On November 23, the federal interagency Global Change Research Program (GCRP) issued the "Fourth National Climate Assessment, Volume II: Impacts, Risks, and Adaptation in the United States". Congress established the GCRP in the "Global Change Research Act of 1990" (P.L. 101-606), and it currently includes 13 participating federal agencies. The report assesses different scenarios based on projected greenhouse gas (GHG) emissions, which are designated as "Representative Concentration Pathways" (RCPs). The GCRP also issued the "Second State of the Carbon Cycle Report".

Democrats, who will take control of the U.S. House of Representatives on January 3, 2019, are expected to use the Assessment to attack the Trump Administration's deregulatory initiatives, including rulemakings that target the Obama Administration's Clean Power Plan and vehicle fuel efficiency requirements. Environmental groups and state attorneys general will also likely cite the Assessment in litigation challenging these deregulatory rules.

The Assessment acknowledges progress made in reducing GHGs, noting that "[i]n 2017, U.S. emissions were at their lowest levels since 1994" and that U.S. power generation facilities reduced emissions by "25% below 2005 levels in 2016." The report cites "increases in natural gas and renewable energy generation, as well as enhanced energy efficiency programs" as driving these emissions reductions.

The Assessment "concludes that the evidence of human-caused climate change is overwhelming and continues to strengthen, that the impacts of climate change are intensifying across the country, and that climate-related threats to Americans' physical, social, and economic well-being are rising."

Reaction:

Following the Assessment's release, Environmental Protection Agency (EPA) Acting Administrator Andrew Wheeler questioned its emphasis on what he characterized as a "worst case scenario". Wheeler also commented that it "was written in 2016, and was at the direction of the previous administration…" He added, "I don't think the assessment really took into account the innovation…and the technological advancement that we've seen in recent years."

Senate Environment and Public Works Committee Ranking Member Tom Carper (D-DE) released a statement asserting that the Trump Administration tried to "bury" the report by issuing it the day after Thanksgiving. He also declared that "I stand ready to work with my counterparts on both sides of the aisle here in the Senate and in the House to find serious ways to reduce our emissions and prepare our nation's infrastructure for what we know is next."

Incoming House Energy and Commerce Committee Chairman Frank Pallone (D-NJ) issued a statement that promised that the "days of denial and inaction in the House are over as House Democrats plan to aggressively address climate change and hold the Administration accountable for its backward policies that only make it worse."

FERC Nominee Vote Scheduled for Monday

On Monday, the Senate is scheduled to vote at 5:30 p.m. on the motion to invoke cloture on the nomination of Bernard McNamee to be a member of the Federal Energy Regulatory Commission (FERC). The President nominated McNamee, Director of the Department of Energy's Office of Policy, to fill the slot of Robert Powelson, who resigned in August from the Commission. The Senate Energy and Natural Resources Committee held a hearing on McNamee's nomination on November 15. On November 27, the Committee voted 13-10 to advance McNamee's nomination to the full Senate on a party-line basis.

During the business meeting Chairman Lisa Murkowski (R-AK) said she expects McNamee to be fuel-neutral in his role at FERC. Ranking Member Maria Cantwell (D-WA) expressed opposition to McNamee's nomination, and criticized what she characterized as his bias in favor of fossil fuels and against renewable energy. She asserted that McNamee is not the right person for FERC and that his views are "neither fair nor judicious".

If the Senate votes to invoke cloture on the nomination on Monday, time for further debate will be limited and a vote to confirm McNamee would likely follow later in the week.

Upcoming Hearings and Events

December 5

Pending Legislation: The Senate Energy and Natural Resources Committee's National Parks Subcommittee will hold a hearing on pending legislation.

High Octane Fuel Standard: The House Energy and Commerce Committee's Environment Subcommittee will hold a hearing on the "21st Century Transportation Fuels Act" (discussion draft). As described in a statement by Subcommittee Chairman John Shimkus, "the draft seeks to transition from the Renewable Fuel Standard to a performance-based high-octane standard for vehicles of the future, remove barriers that limit consumer choices at the pump, and bring greater certainty to the industries affected by those policies."

Advanced Nuclear Reactors: The Senate Appropriations Committee's Subcommittee on Energy and Water Development will hold a hearing on the future of nuclear power, focusing on advanced reactors.

December 18-19

Pipeline Safety Information Sharing: The Pipeline and Hazardous Materials Safety Administration (PHMSA) will convene a meeting of its Voluntary Information-Sharing System Working Group.

For more information about energy and environment issues you may email or call Frank Vlossak at 202-659-8201. Alex Barcham and Ashley Strobel contributed to this report. Updates on energy and environment issues are also available on twitter.

HEALTH

CMS Proposes Changes to Medicare Part D

Key Points:

- *The Centers for Medicare and Medicaid Services proposed changes to Medicare Part D to provide more tools to negotiate prices for CY 2020.*
- *Comments on the proposed rule are due January 25, 2019.*

On November 26, the Centers for Medicare and Medicaid Services (CMS) announced a proposed rule aimed at providing more tools to Medicare Advantage and Medicare Part D plans to negotiate lower prices for Contract Year (CY) 2020. Department of Health and Human Services Secretary Alex Azar predicted bring these tools to Medicare Part D will "save money for taxpayers and seniors, improve access to expensive drugs many seniors need, and expend their choice of plans."

The proposal would:

- Provide Part D plans with greater flexibility to negotiate drug prices in the six protected therapeutic classes. Current Part D policy requires sponsors to include on their formularies all drugs in the six protected classes: antidepressants; antipsychotics; anticonvulsants; immunosuppressants for transplant rejection; antiretrovirals; and antineoplastics. The proposal will allow sponsors to implement broader use of prior authorization, exclude a drug that represents only a new formulation of an existing drug, and exclude a drug if the price increases beyond of certain threshold;
- Require Part D plans to increase transparency and provide enrollees and

their doctors with out-of-pocket cost obligations for prescription drugs when a prescription is written;
- Implement the prohibition on gag clauses in pharmacy contracts signed into law by the President earlier this year. It prohibits Part D sponsors from preventing or penalizing a pharmacy from disclosing a lower cash price to an enrollee; and
- Codify a policy similar to the one implemented for CY 2019 allowing Medicare Advantage plans to use step therapy for Part B drugs.

In addition to these proposals, CMS also seeks comments on an additional measure it is contemplating. CMS is considering a policy to redefine negotiated price as the baseline or lowest possible payment to a pharmacy. The negotiated price is used to calculate beneficiary cost-sharing. Due to performance-based pharmacy payment arrangements, the negotiated price is increasingly higher than the final payment to pharmacies. Use of the higher negotiated price leads to higher beneficiary cost-sharing and faster advancement through the Part D benefit. This proposal is being considered for a future plan year as early as 2020.

Read the proposed rule here and a fact sheet here.

Upcoming Hearings and Meetings

December 3

Genomes: New America holds a discussion on "Biosecurity in the Age of Genome Editing."

December 4

Telehealth: Health Affairs will host a briefing on telehealth focused on a broad range of technologies used to connect clinicians to each other and to their patients.

Competition: The American Enterprise Institute will hold a forum on "Health Care that Matters: Real Choices for Real Competition."

December 5

Opioids: The Washington Post will hold a discussion on "Addiction in America: The New War on Drugs."

December 6

Chronic Care: The Bipartisan Policy Center will hold a discussion on "Bipartisan Leadership in Health Care: CHRONIC (Creating High-quality Results and Outcomes Necessary to Improve Chronic) Care Act of 2018."

December 7

Aging: The Alliance for health Policy will hold a briefing on "Aging in America."

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

U.S., Canada, Mexico Sign New Trade Deal

Key Points:
- President Trump, Mexican President Enrique Peña Nieto and Canadian Prime Minister Justin Trudeau signed the U.S.-Canada-Mexico Agreement

(USMCA) during the G20 summit early Friday.
- The Section 232 steel and aluminum tariff issue has not yet been resolved.

The leaders of the U.S., Canada, and Mexico gathered Friday to sign the proposed replacement for the North American Free Trade Agreement (NAFTA). The signing starts the clock on the International Trade Commission's (ITC) 105-day deadline (will be March 15, 2019) to complete its report on the agreement, as well as the UST 60 day deadline (will be January 29, 2019) to notify Congress of changes needed in the law as a result of the agreement. Both deadlines can be completed earlier. Congress does not have to wait for the report/notices to be completed before deliberating and voting on the deal, though it is expected to take most if not all of the allotted time.

Under trade promotion authority procedural requirements, there can be a pause between ITC report submission and the next step of submitting the draft agreement to Congress; i.e., there is no hard deadline after the ITC report to submit the draft text, it can be immediate or it can be months.

The Administration must then supply Congress with the final text and a draft statement of administration action 30 days before the introduction of a USMCA implementation bill, which allows for a "mock markup" by the House Ways and Means and Senate Finance Committees to suggest changes. That submission starts a 90 day clock for Congress to complete consideration of the agreement. Congress could start to consider the USMCA starting in the spring, but consideration could be delayed and take more of the year if needed.

Passage through Congress could be complicated by some Democrats calling for stricter labor provisions and some Republicans opposing gender nondiscrimination provisions included by Canada, among other issues like dispute settlement mechanisms and rules of origin. To that end, this morning Senate Democratic leader Schumer suggested his caucus will seek improvements to the labor and environmental obligations as part of the implementing legislation.

The parties signed the USMCA deal without agreeing to a remedy for Section 232 tariffs the U.S. imposed on steel and aluminum earlier this year. The U.S. and Mexico were reportedly close to a deal earlier this month that would have set Mexico's export quota at between 130 and 150 percent of average exports from 2015 to 2017. The talks reportedly fell apart when the U.S. insisted on a stricter quota. USTR Lighthizer this morning suggested the parties will promptly return to discussions on 232 tariffs and addressing those.

U.S. President Trump, Chinese President Xi Jinping to Meet Saturday to Talk Trade Issues between Countries

Key Points:
- Secretary of State Pompeo, Treasury Secretary Mnuchin, National Security Adviser Bolton, NEC Director Kudlow, USTR Lighthizer, and White House Trade Advisor Peter Navarro are on the are expected to join President Trump in his dinner and meeting with President Xi.
- USTR Lighthizer will be examining how to equalize auto tariffs between the U.S. and China.
- Senior Democratic Senators urged President Trump to not accept a deal in which China does not make major concessions.

National Economic Council Director Kudlow said Tuesday the Administration is hoping for a "breakthrough" when President Trump and President Xi meet during the G-20 summit and warned there could be "additional actions" if it does not go well. The dinner will include advisors more open to deals with China, like NEC Director Kudlow and Treasury Secretary Mnuchin, as well as very hawkish China attendees like U.S. Trade Representative (USTR) Lighthizer, NSA Bolton and Trade Advisor Peter Navarro. Based on the different approaches of the attendees, it is unclear what the advisors' posture or advice will be.

USTR Lighthizer on Wednesday said he will be examining how to "equalize" automobile tariffs between the U.S. and China. Lighthizer went on to explain that China imposes a 40 percent tariff on U.S. automobiles while the U.S. imposes a 27.5 percent tariff on Chinese autos. He stated China's tariff rate is "more than double the rate of 15 percent that China imposes on its other trading partners… At the President's direction, I will examine all available tools to equalize the tariffs applied to automobiles."

Meanwhile, Senators Chuck Schumer (D-NY), Ron Wyden (D-OR), and Sherrod Brown (D-OH) in a letter urged the Administration to "stand firm against China if meaningful concessions are not made." They argued China has still "not fundamentally altered its predatory trade practices that were the impetus for the initial 301 tariffs."

Finally, this morning in Buenos Aires, USTR Lighthizer was suggesting a more positive outlook, stating "I would be very surprised if the dinner was not a success." The exact timing of the dinner has not been made public and it should be noted Buenos Aires is two hours ahead of EST. News of how the conversation went will likely filter out Saturday evening via formal sources or Twitter.

UPCOMING EVENTS

December 3

The Atlantic Council – China-Latin America Trade: The Atlantic Council holds a discussion on "China-Latin America Trade at a Moment of Uncertainty: What Lies Ahead in 2019?" Participants include: Former Costa Rican Minister of Trade Anabel Gonzalez; Gerardo Mato, chairman of global banking and markets for the Americas at HSBC; Erin Ennis, senior vice president of the U.S.-China Business Council; and Jason Marczak, director of the Atlantic Council's Latin America Center.

December 4

U.S.-China CEO and Former Senior Officials' Dialogue: The U.S. Chamber of Commerce (USCC) and the China Center for International Economic Exchanges hold the 11th U.S.-China CEO and Former Senior Officials' Dialogue, focusing on bilateral commercial relations and the global economy.

December 5

ITC – Common Alloy Aluminum Sheet from China: International Trade Commission (F.R. Page 61393) holds a meeting to vote on Inv. Nos. 701-TA-591 and 731-TA-1399, on common alloy aluminum sheet from China.

December 6

ITC - U.S.-Japan Trade Agreement: International Trade Commission (F.R. Page 56100) holds a hearing on the "U.S.-Japan Trade Agreement: Advice on the Probable Economic Effect of Providing Duty-Free Treatment for Currently Dutiable Imports."

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 Schnepp.