

July 27, 2018

## Washington Update

### This Week in Congress

**House** – The House passed H.R. 4881, the **Precision Agriculture Connectivity Act**; H.R. 184, the **Protect Medical Innovation Act**; H.R. 6311 **Increasing Access to Lower Premium Plans and Expanding Health Savings Accounts Act of 2018**; H.R. 6199, **Restoring Access to Medication Act** and H.R. 5515, the **National Defense Authorization Act FY 2019**.

**Senate** – The Senate passed H.R. 2353, to **reauthorize the Carl D. Perkins Career and Technical Education Act of 2006**; S. 2278, **State Offices of Rural Health Reauthorization Act of 2018**; H.R. 5729 **restricting the Coast Guard from adopting certain biometric security measures**; H.R. 4318, the **Miscellaneous Tariff Bill**; S. 2503, **Department of Energy Research and Innovation Act**; and confirmed **Robert L. Wilkie** to be Secretary of Veterans Affairs and **Bruce Landsberg** and **Jennifer L. Homendy** to be Members of the National Transportation Safety Board.

### Next Week in Congress

**House** – The House is in recess until September 4.

**Senate** – The Senate may resume consideration of the nomination of **Britt Cagle Grant** to be United States Circuit Judge for the Eleventh Circuit and the **Minibus II**, including **Agriculture, T-HUD, Interior, Environment, Financial Services, and General Government Appropriations**; a **four-month extension of the flood insurance program**; and the **conference report on the National Defense Authorization Act**.

## TAX

### House Republicans Outline “Tax Reform 2.0”

#### Key Points:

- *House Republicans released their framework for “Tax Reform 2.0” on Tuesday that aims to make permanent the temporary tax cuts for individuals and passthrough businesses.*
- *Ways and Means Chairman Kevin Brady (R-TX) said the legislation will be broken into three separate bills that will make the*

*individual cuts permanent, bolster savings, and foster innovation.*

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- *The outline also called for the expansion of section 529 savings accounts and for the creation of “Universal Savings Accounts.”*

On Tuesday, House Republicans released their [outline](#) for legislation that aims to build upon the benefits of the Tax Cuts and Jobs Act (TCJA) by making permanent the temporary tax cuts for individuals and passthrough businesses. Specifically, the plan states that the legislation will come in the form of three separate bills that will each focus on the primary goals of the plan: making temporary provisions permanent, bolstering savings, and fostering innovation. House Ways and Means Chairman Kevin Brady (R-TX) added that the proposed bills will be a part of a new commitment to update the tax code on an annual basis.

The proposal also calls for the expansion of section 529 savings accounts to allow for apprenticeship fees, home-school funding, paying off student debt, and penalty-free retirement account withdrawals when adopting or giving birth to a child. In addition, the plan also called for “Universal Savings Accounts,” or USA, to offer families a “fully flexible savings tool.” In regard to the individual cuts, Brady stated: “The permanence creates about a million and a half new jobs long-term [and] increases economic growth an additional 2 percent, all of which helps us offset some—but not all—of the cost.”

Brady did not say whether the legislation will be paid for but estimated that the permanent extension of expiring tax cuts would be “in the ballpark” of \$600 billion. The outline did not include technical corrections, which are expected to be handled in separate legislation introduced after the November elections. House Democrats opposed the initial outline with Ways and Means Ranking Member Richard Neal (D-MA) stating that the plan is

“more of the same” and argued that it benefits the wealthiest taxpayers. Specifically, Neal criticized the decision for not reinstating the full state and local tax (SALT) deduction.

### House Passes Tax-Related Bills

#### Key Point:

- *The House passed a slate of bills that would end the 2.3 percent medical device tax; delay the annual fee on health insurers; eliminate an ACA provision that prevents people from using the premium tax credit to purchase copper plans; allow for some over-the-counter medications and feminine hygiene products to qualify as medical expenses; and prohibit the ITS from rehiring former employees who were dismissed for misconduct.*

Over the course of Tuesday and Wednesday, the House passed a slate of tax-related bills. The Protect Medical Innovation Act of 2017 ([H.R. 184](#)) passed with a vote of 283-132. The bill would end the 2.3 percent medical device tax beginning in 2020 but the legislation is not expected to clear the Senate. The Increasing Access to Lower Premium Plans and Expanding Health Savings Accounts Act of 2018 ([H.R. 6311](#)) passed with a vote of 242-176. The legislation would delay the annual fee on health insurers until 2022, eliminate an Affordable Care Act (ACA) provision that prevents people from using the premium tax credit to purchase copper health plans, and enact other changes aimed at making Health Savings Account (HSA) contributions easier. The Restoring Access to Medication and Modernizing Health Savings Accounts Act ([H.R. 6199](#)) passed on a 277-142 vote and would allow some over-the-counter medications and feminine hygiene products to qualify as medical expenses.

The Ensuring Integrity in the IRS Workforce Act of 2018 ([H.R. 3500](#)), which would prevent

the IRS from rehiring former employees who were dismissed for misconduct, passed the House with a voice vote. The bill is expected to move forward in the Senate. The Water and Agriculture Tax Reform Act ([H.R. 519](#)), also passed with a voice vote, would allow certain mutual ditch and irrigation utilities to sell water to nonmembers and retain their nonprofit status. In addition, the House also passed the Tribal Social Security Act of 2018 ([H.R. 6124](#)); the Native American Health Savings Improvement Act ([H.R. 1476](#)); and the Equitable Access to Care and Health Act ([H.R. 1201](#)).

### Senate Finance and House Small Business Committees Each Hold Tax-Related Hearings

#### Key Points:

- *The House Small Business Committee held a hearing on the Tax Cuts and Jobs Act's effect on small businesses.*
- *The Senate Finance Committee held a hearing on improving the IRS and overall tax administration.*
- *Senate Finance Committee Chairman Orrin Hatch (R-UT) called for a full-Senate vote on the nomination of Charles Rettig to be the new IRS commissioner.*

On Wednesday, the House Small Business Committee held a [hearing](#) on the on the “Tax Law’s Impact on Main Street.” Topics discussed in the hearing included: (1) Capital Expenditures; (2) Tax-Filing Simplicity; (3) Section 199A; (4) Regulatory Relief; (5) Estimated Tax Withholding; (6) Deficit; (7) Tariffs; and (8) State and Local Tax Deduction. Committee Chairman Steve Chabot (R-OH) said in his opening statement: “Beyond macroeconomic data trends, this tax law will be judged on its direct impact on the ground...This is what we are here to discuss today: the reactions, the impact, and the effects

of the Tax Cuts and Jobs Act on small business owners across this nation.” Witnesses included small-business owners from across the country.

On Thursday, the Senate Finance Committee’s Taxation and Oversight Subcommittee held a [hearing](#) on “Improving Tax Administration Today.” Topics discussed in the hearing included: (1) Tax Form Availability; (2) IRS Oversight/Management Board; (3) Regulating Paid Preparers/Debt Collection; (4) Simplifying Credits/Deductions; (5) IRS Authentication; and (6) Corporate Tax Revenue. Subcommittee Chairman Rob Portman (R-OH). Subcommittee Chairman Rob Portman (R-OH) explained that Congress has an interest in reforming the IRS and introduced the Protecting Taxpayer Act—a bipartisan bill that aims to increase taxpayer protections, small and mid-sized business services, and strengthen IT infrastructure. Ranking Member Mark Warner (D-VA) added that he is interested in modernizing the classic W-2 form in order to make it more accessible for today’s workforce.

In regard to the nomination of Charles Rettig as the new IRS commissioner, Senate Finance Committee Chairman Orrin Hatch (R-UT) urged the Senate to move forward with the process and to take the nomination to the floor. Senate Democrats have expressed concern over the new donor disclosure rule that has forced the Senate to delay the nomination for an additional week.

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

**FINANCIAL SERVICES****House Financial Services Approves  
Financial Services Legislation***Key Point:*

- *The House Financial Services Committee approved seven bills aimed at ending youth homelessness; reforming mortgage lending points and fees; fintech; bank examinations; state based insurance regulation; and countering weapons proliferation.*

On July 24, the House Financial Services Committee held a [markup](#) and approved seven bills:

- The “Homeless Children and Youth Act of 2017” ([H.R. 1511](#)), to amend the McKinney-Vento Homeless Assistance Act to meet the needs of homeless children, youth, and families, and honor the assessments and priorities of local communities. H.R. 1511 was approved, as amended, by a vote of 39 to 18.
- The “Fostering Stable Housing Opportunities Act of 2017” ([H.R. 2069](#)), to provide priority under certain federally assisted housing programs to assist youths who are aging out of foster care. H.R. 2069 was approved, as amended, by a vote of 24 to 23.
- The “Mortgage Fairness Act of 2017” ([H.R. 2570](#)), to amend the Truth in Lending Act to clarify that the points and fees in connection with a mortgage loan do not include certain compensation amounts already taken into account in setting the interest rate on such loan. H.R. 2570 was approved by a vote of 34 to 22.
- The “Bank Service Company Examination Coordination Act of 2017” ([H.R. 3626](#)), to amend the Bank Service Company Act to provide improvements with respect to State

banking agencies. H.R. 3626 was approved, as amended, by a vote of 56 to 0.

- The “Financial Technology Protection Act” ([H.R. 5036](#)), to establish an Independent Financial Technology Task Force, to provide rewards for information leading to convictions related to terrorist use of digital currencies, to establish a FinTech Leadership in Innovation Program to encourage the development of tools and programs to combat terrorist and illicit use of digital currencies. H.R. 5036 was approved, as amended, by a vote of 57 to 0.
- The “State Insurance Regulation Preservation Act” ([H.R. 5059](#)), to amend the Home Owners’ Loan Act with respect to the registration and supervision of insurance savings and loan holding companies. H.R. 5059 was approved, as amended, by a voice vote.
- The “Improving Strategies to Counter Weapons Proliferation Act” ([H.R. 6332](#)), to require the Director of the Financial Crimes Enforcement Network to submit a report to Congress on the way in which data collected pursuant to title 31 is being used. H.R. 6332 was approved by a vote of 56 to 0.

Chairman Jeb Hensarling (R-TX) stated H.R. 1511 and H.R. 2069 are aimed at reducing the homelessness of youth; H.R. 2570 will make it easier for consumers to obtain a mortgage; two bills are aimed at state banking and insurance to increase access to these services; and two bills to prevent bad actors and terrorists from using financial services. He stated if these bills are reported favorably the Committee will have reported out 100 bills since January 2017. Ranking Member Maxine Waters (D-CA), in a [statement](#), explained she was encouraged by the bipartisan agreement reached on the JOBS 3.0

package but suggested this Committee should now focus on making homeownership easier. She noted there is no place in America that a person on minimum wage can afford a two-bedroom house. She noted she introduced the Ending Homelessness Act of 2017 ([H.R. 2076](#)), which would provide \$13.27 billion in new funding over five years to federal programs and initiatives to prevent homelessness. She reiterated this Committee should be considering the Ending Homelessness Act and other Democratic bills to help vulnerable families and hardworking Americans.

### **Senate Agriculture Considers CFTC Nomination**

#### *Key Point:*

- *The Senate Agriculture Committee considered the nomination of Dan Berkovitz to be a Commissioner of the CFTC.*

On July 24, the Senate Agriculture, Nutrition, and Forestry Committee held a [hearing](#) to consider the nomination of Dan Michael Berkovitz to be a Commissioner of the Commodity Future Trading Commission (CFTC). Chairman Pat Roberts (R-KS) said the Commodity Futures Trading Commission (CFTC) plays a vital role in helping farmers and ranchers. He stressed it is crucial to have the CFTC Commissioners positions filled and noted the Committee has received numerous letters of support for Berkovitz from agricultural organizations. Ranking Member Debbie Stabenow (D-MI) noted this is the first hearing of the Committee since the Agriculture Improvement Act of 2018 ([S. 3042](#)) passed on a historic 86-11 bipartisan vote in the Senate. She stated that farmers, manufacturers, and consumers all rely on the futures and swaps markets to provide stability. She noted the CFTC ensures these markets are free of fraud and abusive practices. She stated that CFTC Commissioner nominee Dan Berkovitz has

vast experience in agriculture as a result of his time as General Counsel at the CFTC. She asserted the position limits rule particularly needs to be updated to provide clarity for market participants.

Several Members asked about hedging risks and the commodity markets. Berkovitz stated that a farmer hedges to ensure a predictable price for a crop coming to harvest. He expressed concern about the cash market evolution for certain products and that participant reduction has created liquidity concerns in a number of markets. He reiterated that giving farmers and end users the ability to hedge is the fundamental goal of the CFTC. Senator Deb Fischer (R-NE) stated that community banks have expressed concerns about offering products which potentially run afoul of the Volcker Rule. Berkovitz noted that the CFTC and the Federal Reserve both have proposals to change the Volcker Rule which include a provision to establish compliance tiers based on the size of each bank. When asked about position limits, Berkovitz stated that he would work to establish a position limit rule to ensure that speculative positions do not have “undue impact” on commodity prices. He committed to completing a position limit rule in a timely manner. Related to CFTC priorities moving forward, Berkovitz responded that the CFTC needs to complete the rulemaking on the de minimis threshold for registering as a swap dealer. He added that the CFTC needs to be ahead of the curve on the cryptocurrency issue as cryptocurrencies present significant regulatory and market integrity issues.

### **Senate Banking Committee Considers SEC, Ginnie Mae, HUD, and OFR Nominees**

#### *Key Point:*

- *The Senate Banking Committee considered the nominations of Elad Roisman to be a member*



*of the SEC; Michael Bright, to be President of the Government National Mortgage Association; Rae Oliver to be Inspector General for HUD; and Dino Falaschetti to be Director of the Office of Financial Research.*

On July 24<sup>th</sup>, the Senate Banking, Housing, and Urban Affairs Committee held a [hearing](#) on the nominations of Mr. Elad Roisman, to be a Member of the Securities and Exchange Commission (SEC); Mr. Michael Bright, to be President of the Government National Mortgage Association (Ginnie Mae); Ms. Rae Oliver, to be Inspector General (IG), U.S. Department of Housing and Urban Development (HUD); and Dr. Dino Falaschetti, to be Director, Office of Financial Research (OFR), U.S. Department of the Treasury. Chairman Mike Crapo (R-ID) said each nominee will play an important role in the nation's financial system.

When asked about the priorities for the OFR, Falaschetti stated that his goal is to provide agencies with the necessary research on financial stability and he wants to build out OFR's foundational work by increasing transparency in financial transactions. Roisman was asked whether SEC penalties are meaningful enough to hold bad actors accountable. He suggested there is no place for bad actors and they need to be held accountable. He explained that enforcement should be viewed on a case-by-case basis. Several Members asked about the fiduciary duty rule, and Roisman stated it is important for the SEC to take action in this area but he does not want to pre-judge the proposed Regulation Best Interest. He stated he will review the comments but stressed that it is important to ensure access to advice and for investors to understand the nature of the relationship with their financial service provider. He added that it is important for a

rule to be business model neutral and preserve investor choice.

The Committee could vote on the nominations in the coming weeks.

### **Joint Economic Committee Discusses the Innovation Economy and Access to Capital**

#### *Key Points:*

- *Chairman Erik Paulsen (R-MN) suggested as the Ways and Means Committee embarks on "Tax Reform 2.0," they must take an innovation friendly approach that increases incentives to invest in new companies and technologies.*
- *GlycoMimetics CEO Rachel King urged Congress to address the auditor attestation requirements in Sarbanes Oxley section 404(b).*

On July 25, the Joint Economic Committee held a [hearing](#) entitled "The Innovation Economy, Entrepreneurship, and Barriers to Capital Access." Chairman Erik Paulsen (R-MN), in a [statement](#), explained the United States has fallen to 11th place in the 2018 Bloomberg Innovation Index. He suggested policymakers need to figure out how to find the right mix of policies to spur innovation along. Paulsen stated nearly 70 percent of start-up businesses received less financing than they applied for and nearly 28 percent of start-up businesses were not approved for any financing at all. He suggested for there to be progress, Congress needs to remove obstacles to raising seed capital. He suggested as the Ways and Means Committee embarks on "Tax Reform 2.0," they must take an innovation friendly approach that increases incentives to invest in new companies and technologies. Ranking Member Martin Heinrich (D-NM), in a [statement](#), suggested a big challenge for entrepreneurs in small towns and remote areas is getting access to capital to turn their idea into

a business or to take their business to the next level. He stated Joint Economic Committee (JEC) Democrats recently released a comprehensive report “[Investing in Rural America](#)” that examines the economic challenges and opportunities facing rural communities. Heinrich noted many rural communities have seen their financial institutions disappear and with them access to loans people need to build and expand businesses.

Several Members raised concern with the decline in the IPO market. Phil Mackintosh (Nasdaq) stated with the decline in the IPO market developers will not have access to capital and will look to invest overseas. He explained that when companies conduct their IPO overseas the jobs follow. When asked about tax reform in general, Lisa Mensah (Opportunity Finance Network) suggested Congress focus on the proposed Opportunity Zones and their possible connection with community development financial institutions (CDFIs). She urged Congress to continue to fund the CDFI Fund suggesting that they are the “Swiss army knife” of financing. She stated CDFIs can play a huge role in “banking deserts.” Several Members asked about venture capital and getting investment outside the larger cities. King stated that dealing with section 404(b) of the Sarbanes Oxley Act is a big issue for emerging growth companies and would help with increasing the flow of capital to other areas.

### **CFTC Chairman Testifies before House Panel**

#### *Key Points:*

- *CFTC Chairman J. Christopher Giancarlo testified that the priorities for the CFTC are to foster open and competitive markets that are free of manipulation, and to support broad based economic growth while respecting*

*taxpayers with careful management of resources.*

- *Giancarlo urged Congress to take a cautious and deliberate approach to crypto regulation.*

On July 25, the House Agriculture Committee held a [hearing](#) entitled: “Examining the Upcoming Agenda for the Commodity Futures Trading Commission.” Chairman Michael Conaway (R-TX) stated he believes the European Commission needs to preserve the U.S. equivalency agreement and the Senate must act on reauthorizing the Commodity Futures Trading Commission (CFTC). Ranking Member Collin Peterson (D-MN) said as the U.S. continues to recover from the financial crisis there is a need for sound oversight and regulation of derivatives markets. He said it is in the national collective interest to make sure these markets function properly and that end users and consumers are protected from bad actors in the market.

CFTC Chairman J. Christopher Giancarlo testified that the priorities for the CFTC are to foster open and competitive markets that are free of manipulation, and to support broad based economic growth while respecting taxpayers with careful management of resources. He said with the proper balance of sound policy, American regulatory oversight, and supervisory deference by overseas regulatory counterparts, U.S. commodity derivative markets will continue to evolve in responsible ways. In his written [testimony](#), Chairman Giancarlo emphasized the CFTC focus on enforcement, the importance of the CFTC becoming a 21<sup>st</sup> Century regulator, including through the LabCFTC initiative, and two rulemaking priorities: the level of the de Minimis threshold; and a final position limits rule. With regard to the de Minimis threshold, he explained that staff of the Division of Swap Dealer and Intermediary Oversight is actively working on the issue. He noted that any final

position limits must “work in practice and not be overly burdensome”, adding that any rulemaking on this “should be done properly by a full Commission” to ensure it “stands the test of time.”

When asked about relations with the EU and European Commission, Giancarlo stated that conversations are ongoing, relationships are cordial, and the dialogue is direct and candid. He said however, the CFTC has not gotten much further than the last time this committee met with him. He explained that European Parliament has made some small concessions but would still require imposition of European law on U.S. clearings houses which he suggested is “ludicrous.” He said that since Brexit, however, the EU appears to be dismissing that agreement and starting over with a different approach. He said the new approach is that they look at third country clearinghouses and rank them; if they are globally important and not just limited to their swaps volume, then European law will apply to the entirety of their operations. Representative Austin Scott (R-GA) asked about the LabCFTC initiative. Giancarlo stated that the CFTC is the “front door” for many new technologies. He noted the work that has been done related to blockchain. When asked about Title VII of the Dodd-Frank Act (DFA), Chairman Giancarlo stated that harmonization with the SEC has not received the right level of prioritization. He noted since taking office a harmonization committee has been established that meets on a regular basis with the SEC. He expressed optimism that progress is being made. Several Members raised concerns over the cryptocurrency space. Giancarlo said the CFTC is a great agency but noted it is not traditionally a retail market regulator. He suggested the Securities and Exchange Commission (SEC) is more experienced on the retail side. He urged Congress to take a

cautious and deliberate approach to crypto regulation.

### House Passes Short-term NFIP Extension

*Key Point:*

- *The House passed a four month extension to the NFIP which will keep the program running through November 30.*

On July 25, the House passed a four month extension to the National Flood Insurance Program (NFIP), which is set to expire on July 31, by a vote of 366 to 52. The extension would keep the NFIP running through November 30 and is the seventh short-term extension passed by Congress in recent months. The extension contains no reforms to the current program and the Senate must act to prevent a lapse in the program. In June the Senate passed a six month extension in the Farm Bill that is now in conference with the House. House Financial Services Committee Chairman Jeb Hensarling (R-TX) argued against another short-term extension of the NFIP suggesting that the program is in “dire need” of reforms.

On July 26, Senate Majority Leader Mitch McConnell (R-KY) filed cloture on the motion to concur with the House extension bill, therefore, a cloture vote is expected early next week.

### Senate Begins Work on “Minibus” Appropriations

*Key Point:*

- *The Senate began consideration of the FY19 Interior, Financial Services and General Government, and Agriculture “Minibus” appropriations bill.*

This week the Senate began consideration of the FY19 Interior, Financial Services and



General Government (FSGG) and Agriculture “Minibus” appropriations bill. This is the second set of appropriations bills to reach the Floor this session. The “minibus” contains four bills for FY19: the Interior, Environment and Related Agencies bill; the Financial Services and General Government bill; the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies bill; and the Transportation, Housing and Urban Development and Related Agencies bill. Each of these bills was passed unanimously out of Committee. Cloture was filed on [H.R.6147](#), the House version of the minibus as well as substitute amendment on Thursday, and the vote will occur Monday night followed by 30 hours of post-cloture debate.

## Upcoming Hearings and Events

### August 1

**Entrepreneurs:** Bipartisan Policy Center (BPC) will hold a discussion on “Main Street Matters: Small Business Financing,” on “recommendations to make the finance system work better for small businesses and entrepreneurs.”

*For more information about financial services issues you may [email](#) or call Joel Oswald at 202-659-8201. Alex Barcham and Rebecca Konst contributed to the articles.*

## ENERGY & ENVIRONMENT

### Committee Examines Global Oil Prices

#### Key Points:

- On July 24, the Senate Energy and Natural Resources Committee heard testimony from experts on global oil prices.
- Discussion during the hearing covered a range of topics, including: geopolitics; domestic gasoline prices; tax policy; vehicle fuel efficiency standards; and pipeline infrastructure.

As crude oil prices hover around \$70 per barrel and U.S. retail gasoline prices remain significantly higher than a year ago, the Senate Energy and Natural Resources Committee heard testimony on “Factors Impacting Global Oil Prices.” Witnesses testifying at Tuesday’s hearing included:

- John Auers, Executive Vice President, Turner, Mason & Company;
- Jason Bordoff, Founding Director, Center on Global Energy Policy, Columbia University;
- Rusty Braziel, President and Chief Executive Officer, RBN Energy, LLC;
- Robert McNally, Founder and President, Rapidan Energy Group; and
- Keisuke Sadamori, Energy Markets and Security Director, International Energy Agency.

In her [opening statement](#), Chairman Lisa Murkowski (R-AK) said oil prices have been “notably higher than a year ago.” She observed that high oil prices can coincide with economic growth. She stressed that global oil demand is rising because of emerging economies in China and India. She added that the Organization of Petroleum Exporting Countries (OPEC) restricted supply to artificially inflate prices. She declared that “America’s shale revolution has brought tremendous benefits to our country and the global economy.” Murkowski added that as “we produce more, we are creating jobs, generating revenues, and bringing a degree of stability and confidence to global markets.”

Ranking Member Maria Cantwell (D-WA), in her opening statement, said gasoline and diesel prices are 60 cents higher per gallon than a year ago. She criticized OPEC for artificially controlling oil prices. She expressed concern that Iran may close the Strait of Hormuz. Cantwell asked why record-level oil production in the U.S. is not providing relief for

consumers, noting that U.S. oil production has reached 11 million barrels per day. She also expressed concern about the automated trading of commodities.

During questioning of the witnesses, Senator Bill Cassidy (R-LA) stated that companies have accelerated pipeline construction because of tax cuts. He said the delay of the Keystone XL pipeline during the Obama Administration contributed to increased oil prices. He discussed his amendment to the “Energy Policy and Modernization Act of 2015” (S. 2012) that would have provided the Secretary of Energy more flexibility in Strategic Petroleum Reserve (SPR) drawdowns. Cassidy asked about the impacts of the Austin Chalk formation and other hydrocarbon fields coming online. Brazier said Austin Chalk will work given current market conditions. Cassidy asked if the Austin Chalk will provide any relief for consumers. Brazier agreed that after Labor Day the markets should loosen. He also recommended selling off SPR inventory now with high oil prices. McNally asserted that the U.S. should save the SPR for an emergency.

Senator Joe Manchin (D-WV) asked if the U.S. is producing more oil to stabilize the global markets or for the benefit of the domestic market. McNally replied that producers are stabilizing the global market in order to stabilize the domestic market.

Senator Steve Daines (R-MT) said the world would be a better place if the U.S. and its allies decreased dependence on oil from the Middle East and Russia. He emphasized that increased U.S. production can decrease oil prices for domestic consumers. He asked if increased oil production and exports will increase global stability. McNally agreed it would. He said making gas exports available to Europe has limited Russia’s ability to monopolize continental natural gas prices.

## DOE Finalizes Small-Scale LNG Export Regulations

### Key Point:

- *The Department of Energy published revised regulations that will streamline the approval of smaller-volume liquefied natural gas exports.*

On July 25, the Department of Energy (DOE) published the [final rule](#) titled “Small-Scale Natural Gas Exports.” The rule revises existing “regulations to provide that DOE will issue an export authorization upon receipt of any complete application that seeks to export natural gas, including liquefied natural gas (LNG), to countries with which the United States has not entered into a free trade agreement (FTA)...provided that the application satisfies the following two criteria: The application proposes to export natural gas in a volume up to and including 51.75 billion cubic feet (Bcf) per year (Bcf/yr) (equivalent to 0.14 Bcf per day (Bcf/d)), and DOE’s approval of the application does not require an environmental impact statement (EIS) or an environmental assessment (EA) under the National Environmental Policy Act...”

The Department published the [notice of proposed rulemaking \(NPRM\)](#) on September 1, 2017.

In the discussion regarding public comments submitted in response to the NPRM, DOE noted that some “commenters asserted that the United States does not have sufficient natural gas supplies to meet current demand, much less increased demand associated with this rulemaking.” The DOE found, however, that “there are adequate resources to meet demand associated with the final rule.”

In a press release following publication of the final rule, House Energy Subcommittee Chairman Fred Upton called for Congress to

codify a streamlined process for smaller-volume LNG exports. He noted that the Energy and Commerce Committee approved the “Ensuring Small Scale LNG Certainty and Access Act” ([H.R. 4606](#)) in May.

## Legislative Developments

Congressional activity on energy policy this week included:

- **House Approves “Energy Diplomacy Act”:** On Wednesday, the House approved, by voice vote, the “Energy Diplomacy Act of 2018” ([H.R. 5535](#)). The legislation would authorize the new office of “Assistant Secretary of State for Energy Resources” within the Department of State. The legislation would also establish the responsibilities for the new Assistant Secretary of State, including “formulating and implementing international policies...aimed at protecting and advancing United States energy security interests by effectively managing United States bilateral and multilateral relations in the fields of petroleum, natural gas, biofuels, renewable energy, nuclear, and other energy resources.”
- **Subcommittee Reviews Draft Legislation to Lease Strategic Petroleum Reserve Capacity:** On July 24, the House Energy and Commerce Committee’s Energy Subcommittee held a [hearing](#) on “DOE Modernization: Legislation to Authorize a Pilot Project to Commercialize the Strategic Petroleum Reserve.” The hearing focused on draft legislation that would “require the Secretary of Energy to carry out a program to lease underutilized Strategic Petroleum Reserve facilities.” The Committee’s [background memorandum](#)

for the hearing discusses the potential advantages for leasing some of the SPR’s storage capacity, noting that space will become available as the Department of Energy conducts congressionally-directed oil sales over the next ten years. The memorandum notes that the proposed leases would “generate revenue and offset [SPR] operations and maintenance costs.” It also states that the private entities leasing storage capacity “may also invest in infrastructure upgrades to improve the SPR’s distribution capacity in order to move petroleum products to market more efficiently.”

- **Committee Approves DOE Nominations:** On Tuesday, the Senate Energy and Natural Resources Committee voted to favorably report four Department of Energy nominees to the full Senate: Teri Donaldson to be Inspector General; Christopher Fall to be Director of the Office of Science; Karen Evans to be Assistant Secretary for Cybersecurity, Energy Security, and Emergency Response; and Daniel Simmons to be Assistant Secretary for Energy Efficiency and Renewable Energy. As noted in a Committee [press release](#), the panel “favorably reported Donaldson, Fall, and Evans by voice vote, and Simmons by a bipartisan vote of 14-9.”

## Upcoming Hearings and Events

### August 1

**EPA:** The Senate Environment and Public Works Committee will hold a [hearing](#) titled “Examining EPA’s Agenda: Protecting the Environment and Allowing America’s Economy to Grow.”

**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. Updates on energy and environment issues are also available on [twitter](#).*

**DEFENSE****NDA Conference Report***Key Point:*

- *Armed Services Committee agree on final NDAA.*

This week, the [conference report](#) for the “John S. McCain National Defense Authorization Act for Fiscal Year 2019” ([H.R.5515](#)) was filed, passed by the House, and is pending in the Senate.

In the [Joint Explanatory Statement](#), the conferees explained:

The budget request for national defense discretionary programs within the jurisdiction of the Committees on Armed Services of the Senate and the House of Representatives for fiscal year 2019 was \$708.1 billion. Of this

amount, \$617.1 billion was requested for base Department of Defense programs, \$69.0 billion was requested for Overseas Contingency Operations (OCO), \$21.8 billion was requested for national security programs in the Department of Energy and the Defense Nuclear Facilities Safety Board, and \$214.0 million for defense-related activities. The conference agreement would authorize \$708.1 billion in fiscal year 2019, including \$616.9 billion for base Department of Defense programs, \$69.0 billion for OCO, \$21.9 billion for national security programs in the Department of Energy and the Defense Nuclear Facilities Safety Board, and \$300.0 million for defense-related activities.

The House Armed Services Committee made available this [summary](#), and the Senate Armed Services Committee released its own [summary](#).

**Upcoming Hearings and Events****August 2**

***NATO:*** The Senate Foreign Relations Committee will hold a [hearing](#) titled “Assessing the Value of the NATO Alliance.”

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

**HEALTH****CMS Publishes Proposed Rule on CY 2019 Medicare Hospital Outpatient Prospective Payment System***Key Points:*

- *The Centers for Medicare and Medicaid Services released the proposed rule for CY 2019 Medicare Hospital Outpatient*

*Prospective Payment System and Ambulatory Surgical Payment System.*

- *It proposes moving to site neutral payments for clinic visits and addressing other payment differences between sites of service.*
- *The proposal also includes a Request for Information on how to best leverage authority under the Competitive Acquisition Program for Medicare Part B drugs and extends the 340B payment change to non-excepted off-campus department of hospitals.*

On July 25, the Centers for Medicare and Medicaid Services (CMS) released the proposed rule for the CY 2019 Medicare Hospital Outpatient Prospective Payment System (OPPS) and Ambulatory Surgical Center (ASC) Payment System. Administrator Seema Verma said CMS “is taking important steps to empower patients and provide more affordable choices and options.” She noted the “proposed rule is also an important step towards expanding competition for drug payment in Medicare, in order to get the best deal for patients.” Comments on the proposed rule are due September 24, 2018.

The proposal would introduce site neutral payments for clinical visits which is the most common service billed under the OPPS. CMS projects this proposal will save patients \$150 million in lower copayments for visits provided at an off campus hospital outpatient department. CMS also closes a loophole where providers are billing patients more for visits when they create new service lines. CMS includes a proposal to expand the number of procedures payable at ASCs to include additional procedures that can be safely performed in that setting.

To address prescription drug costs, the proposed rule contains a Request for Information (RFI) on how CMS can best leverage its authority provided under the

Competitive Acquisition Program (CAP) as part of a CMS Innovation Center model. CMS suggests a CAP-based model that would allow competition in Medicare Part B by permitting vendors to negotiate payment amounts for Part B drugs. CMS also expands its 2018 policy for the 340B program to non-excepted off-campus departments of hospitals paid under the Physician Fee Schedule.

CMS includes additional RFIs addressing price transparency and further advancing interoperability and data sharing between health care providers.

Read the full proposed rule [here](#) and a factsheet [here](#).

### **CMS Announces New Methodology for the Permanent Risk Adjustment Program**

*Key Point:*

- *The Centers for Medicare and Medicaid Services posted a final rule reissuing the risk adjustment methodology related to the 2017 benefit year.*

On July 24, the Centers for Medicare and Medicaid Services (CMS) announced it a final rule to reissue the risk adjustment methodology it had previously established related to the 2017 benefit year. The rule includes additional explanation of the methodology to comply with the federal district court’s ruling. These changes allow CMS to resume the risk adjustment program in the individual and small group markets. Administrator Seema Verma said the rule will “mitigate some of the uncertainty caused by the New Mexico litigation.” She asserted “alleviating concerns in the market helps protect consumer choices.”

CMS chose to issue a final rule because immediate action will allow for the continued operation of the risk adjustment program to



help maintain stability and predictability in the market. CMS has filed a motion for reconsideration of the court's decision; however, after the hearing on the motion, the judge indicated a final ruling may not come until Labor Day. This final rule provides full explanation of the methodology consistent with the judge's request and will allow CMS to resume the program without delay.

CMS also announced its intention to issue a notice of proposed rulemaking to solicit comments on the CMS risk adjustment methodology that will apply to the 2018 benefit year which was also vacated by the court. CMS finalized its use of the statewide average premium in the CMS risk adjustment methodology for the 2019 benefit year in the final 2019 Payment Notice published on April 17, 2018.

Read the final rule [here](#).

## Upcoming Hearings and Meetings

### July 31

**Telemedicine:** The Hudson Institute will hold a discussion on "Innovating Telemedicine."

**Health Care Costs:** The Senate Health, Education, Labor and Pensions Committee will hold a hearing on "Reducing Health Care Costs: Decreasing Administrative Spending."

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

## TRANSPORTATION & INFRASTRUCTURE

### Shuster Releases Infrastructure Plan

#### Key Points:

- *The outgoing chairman of the House committee with jurisdiction over transportation programs releases his proposal for an infrastructure package.*
- *There is little chance of the bill being enacted this year.*

On July 23, outgoing House Transportation and Infrastructure Committee Chairman Bill Shuster (R-PA) released "a [legislative discussion draft](#)" for "an infrastructure package designed to meet the challenges of a 21st century transportation system" according to his [press release](#).

In the [section-by-section](#), Shuster claimed that the package would make available funding through the following programs, among others:

- **Section 201. Infrastructure Improvements.** This section authorizes the National Infrastructure Investments Program to make investments in transportation infrastructure. It directs the Secretary of Transportation to award grants on a competitive basis to eligible applicants. Thirty percent of annual grant awards must go to projects located in rural areas.
- **Section 202. Extension of Federal Surface Transportation Programs.** This section provides an additional year of certainty to non-federal partners by extending the funding, policies, and programs of the FAST Act through fiscal year 2021.
- **Section 204. Additional Authorizations.** This section provides additional funding, subject to the

availability of appropriations, for certain highway, public transportation, and rail programs for fiscal years 2019, 2020, and 2021.

The bill would rely on the following revenue increases, among others:

- **Section 111. Elimination of Reduced Rate for Intercity and Local Public Transportation Buses.** This section eliminates the reduced user fee on fuel used by certain intercity and local public transportation buses. The reduced user fee on fuel used by school buses remains in effect.
- **Section 112. Application of Tax on Diesel to Certain Passenger Trains.** This section reinstates the 4.3 cents per gallon user fee on diesel used by passenger trains eligible for funding under certain federal public transportation programs. The user fee is indexed to inflation.
- **Section 113. Electric Vehicle Battery Excise Tax.** This section establishes a 10 percent user fee on the wholesale price of electric batteries used to propel motor vehicles.
- **Section 114. Bicycle Tire Tax.** This section establishes a 10 percent user fee on the wholesale price of bicycle tires used on adult bicycles.

**Section 121. Increase in Tax on Motor Fuels.** This section increases the federal user fees on gasoline and diesel fuel by 15 cents per gallon and 20 cents per gallon, respectively. These increases are phased in over a period of three calendar years. Once the phase in is complete, the new user fees are indexed to inflation. On September 30, 2028, the rates for these user fees become zero. This section also provides for corresponding increases in similar user fees on alternative fuels.

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

## **TECHNOLOGY**

### **House OGR Examines Federal Cyber Risk**

#### *Key Point:*

- *The head of the GAO stresses federal cybersecurity is weak and urges agencies to implement recommendations.*

On July 25, the House Oversight and Government Reform Committee's Government Operations and Information Technology Subcommittees held a [hearing](#) entitled "GAO High Risk Focus: Cybersecurity." Topics discussed in the hearing included but were not limited to: (1) cyber-attacks and cyber-attack response; (2) improving the federal cybersecurity framework; (3) cloud defense; (4) Federal IT position vacancies; (5) FISMA; and (5) telework.

Ranking Member Robin Kelly (D-IL) said the recent Government Accountability Office (GAO) report found the Trump Administration is not fully equipped to address cybersecurity threats. She called for a cybersecurity coordinator position to be recreated in the White House along with a global cyber space strategy for the U.S. She added that the U.S. is currently facing large cybersecurity threats and the number of Americans with compromised information is growing. She emphasized the need for greater protection of consumer information, citing the GAO's findings that personally identifiable information is not being properly protected, a finding supported by other entities. She said the privacy laws must be updated and strengthened to account for modern technology.

Chairman Will Hurd (R-TX) said urgent actions are needed to address cybersecurity challenges mentioning that the GAO report outlined four specific challenges to address including the establishment of a comprehensive cybersecurity strategy, performing effective oversight, securing federal systems and information protecting critical infrastructure, and protecting privacy and sensitive data. He expressed concern for the large number of GAO recommendations that have not been implemented which can lead to vast vulnerabilities exemplified by the Office of Personal Management (OPM) data breach. He called for all agencies to read the report and implement the recommendations.

Comptroller General Gene L. Dodaro stated that GAO identified cybersecurity as a high-risk area in 1997 and the designation was expanded in 2003. He argued more needs to be done in the area of cybersecurity, adding that 1,000 GAO recommendations have still not been implemented. He listed the four areas the GAO wants to address including the establishment of a strategy and having effective mechanisms in place to ensure its implementation. He explained areas that need to be addressed should include global supply chain issues, critical workforce issues and dealing with emerging technologies that bring new risk. Dodaro called for more urgent action to secure the federal information systems through continuous diagnostics and mitigation, and faster responses when breaches occur. He stated that critical infrastructure protection is voluntarily covered by the private sector which involves about 16 sectors and are vital to economic health. He called for greater collaboration between the sectors and the government to determine universal standards. He stressed the importance of privacy and the improvement of protection of sensitive information by federal agencies. He said the federal government should eliminate

unnecessary use of Social Security information and added that Congress also needs to update past legislation. He asserted that Congress must establish a consumer privacy framework for the private sector.

Federal Chief Information Officer Suzette Kent said cybersecurity is a core element of the President's Management Agenda's (PMA) IT modernization goals which includes strategies for recruiting, retaining and rescaling the federal IT workforce. She explained that the Office of Management and Budget's (OMB) rules are defined mainly by the "E-Government Act of 2002" ([P.L. 107-347](#)) and the "Federal Information Security Management Act (FISMA) of 2014" ([P.L. 113-283](#)). She said OMB works closely with agency technology leaders such as the Department of Homeland Security (DHS), the Department of Defense (DOD), the Intelligence Community, and the National Security Council (NSC) because cybersecurity requires knowledge of technology as well as mission functions. She emphasized that she works closely with the Office of the Inspector General (OIG) in order to secure systems and data. She mentioned the President's recent Executive Order 13800 for the purpose of strengthening security of federal networks adding that the White House published a report to the President on federal IT modernization which included 52 tasks and directed OMB to develop a federal risk determination report and an action plan. She said OMB and DHS conducted risk management assessments to measure agency cyber security capabilities which revealed work still needs to be done to improve cybersecurity. She outlined other initiatives such as the Vehicle Supports Acceleration of Modernization, enhancing Chief Information Officer (CIO) authorities, and updating policies that have become ineffective due to the modernization of technology.

## House Homeland Security Hearing on Federal Cybersecurity Risk Determination

### Key Point:

- *A House subcommittee looks at recent federal cyber risk report.*

On July 25, 2018, the House Homeland Security Committee's Cybersecurity and Infrastructure Protection Subcommittee held a [hearing](#) entitled "Assessing the State of Federal Cybersecurity Risk Determination." Topics discussed in the hearing included but were not limited to: (1) Cyber Policy, (2) Outsourcing, (3) Threats and Attacks, and (4) Education.

Chairman John Ratcliffe (R-TX) stated that the Subcommittee is concerned over how bad actors seek to obtain private information. He noted that he had introduced the "Advancing Cybersecurity Diagnostics and Mitigation Act" ([H.R. 6443](#)) which will codify and provide direction to the Department of Homeland Security (DHS) in relation to the Continuous Diagnostics and Mitigation Program (CDM). He stated that this was the result of a bipartisan effort. He said "there is an evident lack of strategy" in mitigating risk across federal agencies. Ratcliffe complained that there are gaps and vacancies as well as ageing legacy systems. He said the Office of Management and Budget (OMB) and the DHS released a federal cybersecurity risk determination report and action plan which addressed enterprise wide federal government information technology (IT) systems earlier this year. He cited the report in mentioning that 74 percent of federal IT systems are at risk for cyber-attacks. He asserted that risk management needs to be integrated into every aspect of an organization. Ratcliffe said federal agencies must increase their cybersecurity threat awareness by adjusting their use of tactics, tools and techniques in order to counter adversaries. He added that cybersecurity across several

agencies needs to have standard security processes in order to improve efficiency and asset management while effectively combating cyber threats. He said CDM will improve IT management efforts and cybersecurity across the federal government. He added that the program will be required to evolve over time in order to target modernization. Ratcliffe said agency chief information officers (CIOs) need to improve incident detection. He mentioned an OMB study which stated that only 27 percent of agencies can detect and investigate "attempts to access large volumes of data." He said CDM will provide insight into use of federal networks. Ratcliffe asserted that agency heads need to investigate their respective cybersecurity ecosystems. He encouraged flexibility, resiliency, and discipline in regard to cybersecurity policy.

Ranking Member Cedric Richmond (D-LA) cited a Thales eSecurity 2018 data threat report which found that federal agencies experience more data breaches than any other sector. He said state actors such as Russia, China, Iran, and North Korea have become more sophisticated, emboldened and brazen. He said the Subcommittee has conducted rigorous oversight of implementation of CDM in the DHS. He said the collective understanding of what is happening on federal networks "isn't what it should be." Richmond added that fewer than half of the 96 agencies surveyed can detect encrypted exfiltration of information at target levels. He contended that agencies are not equipped to make strategic investments with money provided by Congress. He stated that only 57 percent of agencies have the mechanisms to issue enterprise wide cyber threat alerts. Richmond said "we have to do better than this." He encouraged making the CDM program more robust and accountable.

Symantec Global Government Affairs Senior Strategist Ken Durbin said cyber attackers

continue to evolve with time. He said they sometimes use “good programs to do bad things.” He said Symantec detected a recent attack using “targeted attack analytics” which crawl through massive datasets to detect unusual data. He added that crypto jacking is a common attack which hijacks computers in order to mine cryptocurrencies. Durbin said detection of these hackers has increased by 8,500 percent in 2017. He noted an “uptick” in supply chain attacks and mentioned the Petya event. He commended OMB for recognizing the importance of the National Institute of Standards and Technology’s (NIST) Cybersecurity Framework (CSF). He said a typical federal agency collects data from over 200 Federal Information Security Management Act (FISMA) controls across ten families in order to evaluate cybersecurity readiness. Durbin said the OMB report mentioned that 38 percent of cyber incidents did not have an identified attack vector and recommended implementation of the Cyber Threat Framework (CTF). He recommended implementation of CTF, automated detection and remediation of cyber defense. He endorsed OMB’s recommendation to oversee IT purchases in order to reduce identified risks. Durbin said CDM focuses on standardized capabilities as opposed to standardized vendors and the program should be moved forward. He stated that the program has been active for five years and only one phase (out of four) has been implemented. He said the government needs to focus on data loss prevention (DLP). He said DLP can automatically encrypt data even if the user does not. He advocated that the government move forward to improve its cybersecurity posture.

Carnegie Mellon University Software Engineering Institute CERT Technical Director Summer C. Fowler said core recommendations of OMB’s report are “excellent steps” to improve federal

cybersecurity posture. She said cyber threats are increasing and adversaries are launching more frequent and complex attacks. She noted that addressing cyber risks needs to require a resilience approach. She asserted that resilience is critical to high value assets belonging to its respective organization. Fowler said the Software Engineering Institute (SEI) has created a Computer Emergency Readiness Team (CERT) resilience model which has been applied by DHS. She said the model was created by assessing over 600 organizations. She added that the model works within the NIST CSF. She said the model allows for organizations to establish baseline capabilities while working with legacy systems. Fowler added that legacy systems will eventually be modernized and move to new platforms such as the cloud. She said moving information into the cloud also introduces new cyber risks. She said the CERT model also addresses the risks related to third party software dependencies. She emphasized a holistic resilience approach in regard to cyber physical systems.

Venable LLP Cybersecurity Services Managing Director Ari Schwartz (testifying on behalf of the Cybersecurity Coalition and Center for Cybersecurity Policy and Law), said cybersecurity issues are not new. He said agencies often receive failing grades in regard to cybersecurity in order to receive more resources. He stated that more resources should be provided in respect to the needs of each individual agency. He mentioned the OMB report in that it recommended empowering CIOs. Schwartz said President Donald Trump’s [Executive Order](#) does this while holding CIOs and leadership responsible. He stated that CIOs should be able to directly confer with leadership within their respective agencies. He recommended that the Director of the OMB assert that cybersecurity should be a central high priority issue to agency heads. Schwartz said cybersecurity “should be on the



radar all the time” and Congress should have strong oversight over implementation of OMB’s plan.

## Upcoming Hearings and Events

### July 31

**Global Internet Governance:** The Senate Commerce, Science, and Transportation Committee’s Communications, Technology, Innovation, and the Internet Subcommittee will hold a [hearing](#) titled “The Internet and Digital Communications: Examining the Impact of Global Internet Governance.”

*For more information on technology issues you may [email](#) or call Michael Kans at 202-659-8201. Jackson McLendon and MARRISA SCHWARTZ contributed to these articles.*

## TRADE

### U.S., EU Agree to Pause Additional Tariffs

#### *Key Point:*

- *President Trump and European Commission President Jean-Claude Juncker announced the U.S. and EU will not impose new tariffs on one another while they are engaged in trade discussions.*

In a [joint statement](#) released on Wednesday, President Trump and EU President Jean-Claude Juncker announced that the U.S. and EU will begin working towards “zero tariffs, zero non-tariff barriers, and zero subsidies on non-auto industrial goods. We will also work to reduce barriers and increase trade in services, chemicals, pharmaceuticals, medical products, as well as soybeans.” The U.S. and EU are setting up a “close dialogue” that will attempt to resolve trade disputes. The parties agreed to “strengthen [their] strategic cooperation with respect to energy. The [EU] wants to import

more liquefied natural gas (LNG) from the United States to diversify its energy supply.” Finally, they announced they will be working with “like-minded partners” to reform the World Trade Organization (WTO) and “to address unfair trading practices, including intellectual property theft, forced technology transfer, industrial subsidies, distortions created by state owned enterprises, and overcapacity.”

While the two parties are working to fill in the details surrounding the joint statement, the U.S. has agreed that it will not levy further tariffs against the EU, including potential tariffs arising from the Section 232 investigation into the national security implications of automobile and auto part imports. Commerce Secretary Wilbur Ross has previously indicated Commerce may release its findings in August. On Thursday, he told reporters the deal “might have an impact in... the eventual conclusion,” but noted, “We don’t have conclusions yet. We’re still in the process of the investigation.” Multiple auto industry groups have come out in support of the announcement, including the Auto Alliance, the American Automotive Policy Council, and the European Automobile Manufacturers’ Association. On the other hand, industry sources have questioned the lack of any concrete details and whether Juncker will be able to keep his promise to import more LNG and soybeans.

### USDA to Provide \$12 Billion for Farmers

#### *Key Point:*

- *The Department of Agriculture (USDA) authorized \$12 billion for three programs that will provide assistance for farmers facing retaliatory tariffs.*

The USDA is using its Commodity Credit Corporation (CCC) authority to establish the Market Facilitation Program, the Food Purchase and Distribution Program, and the

Trade Promotion Program. The first program will give direct payments to soybeans, wheat, sorghum, cotton, corn, dairy, and pork producers. The Food Purchase and Distribution Program will buy unexpected surpluses of “fruits, nuts, rice, legumes, beef, pork and milk for distribution to food banks and other nutrition programs.” The Trade Promotion Program will attempt to open up new export markets for agriculture producers. USDA Under Secretary of Agriculture for Marketing and Regulatory Programs Greg Ibach said the USDA is hoping to fully implement the programs by Labor Day. Senator Ben Sasse (R-NE) blasted the decision, writing in a statement, “America’s farmers don’t want to be paid to lose -- they want to win by feeding the world. This administration’s tariffs and bailouts aren’t going to make America great again, they’re just going to make it 1929 again.” Senate Agriculture Committee Chairman Pat Roberts (R-KS) also said farmers “don’t need aid, we want trade.”

### **Senate Appropriations Holds Trade Focused Hearing with USTR Lighthizer**

#### *Key Point:*

- *Senate Appropriations Committee’s Subcommittee on Commerce, Justice, Science, and Related Agencies held a hearing to discuss the funding priorities for the USTR.*

On Thursday, the Senate Appropriations Committee’s Subcommittee on Commerce, Justice, Science, and Related Agencies held a hearing to examine funding priorities for the Office of the U.S. Trade Representative (USTR). Chairman Jerry Moran (R-KS) began the hearing by expressing support for the Administration getting China’s attention but cautioned against any additional tariffs. He also questioned the Administration’s progress on creating new free trade agreements (FTAs). He said Japan is a significant agriculture export

market and expressed concern about Japan entering FTAs with other countries. USTR Lighthizer said the new FTA process was delayed by his lack of confirmed deputies. He stated the USTR is closely examining countries to negotiate an FTA with and said they “particularly like” the Philippines as an option. He also said he and Economic Minister Motegi set up a structure and will “probably” meet in the next 30 days. He did note that the Japanese have said they do not want an FTA with the U.S. but are willing to work through some trade issues. Lighthizer also said he would like to negotiate an FTA with the UK post-Brexit.

Many Senators questioned the Administration’s use of both Section 232 and 301 tariffs. Senator Lamar Alexander (R-TN) was particularly critical of the steel and aluminum tariffs and others questioned whether Canada should be considered a national security threat. While acknowledging Canada is a close ally and trading partner, Lighthizer said Canada is “absolutely” a national security threat with regard to the 232 tariffs, asserting they have to be subject to tariffs or “you don’t have a program.” Senator Brian Schatz (D-HI) expressed concern the Administration will “use 232 with near impunity,” and “even if there’s no direct nexus to national security issues and even if we’re undermining our national security by offending some of our greatest allies.” Lighthizer said he was “certainly not arguing that we use 232 on everything in the economy.”

Finally, Lighthizer laid out the Administration’s plan for completing NAFTA negotiations. He said the USTR is hoping to complete negotiations with Mexico soon and suggested Canada would join on after a deal is reached. He stated Canada has not compromised in the same way the U.S. and Mexico have. He also noted there would have to be an agreement in principle by August for President Enrique Peña

Nieto to sign the deal. He argued this is not an unreasonable timeframe.

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

**Upcoming Hearings and Events**

**July 30**

***U.S. Chamber of Commerce Panel***

***Discussion:*** Indo-Pacific Business Forum. Secretary of State Mike Pompeo will deliver a keynote address on “America’s Indo-Pacific Economic Vision” Participants include:: Energy Secretary Rick Perry; Commerce Secretary Wilbur Ross; Ray Washburne, president and CEO of the Overseas Private Investment Corporation; Indian Ambassador to the United States Navtej Sarna; Singapore Ambassador to the United States Ashok Kumar Mirpuri; National Security Council Senior Director for Asian Affairs Matt Pottinger; Tadashi Maeda, CEO of the Japan Bank for International Cooperation; Katrina Cooper, head of mission at the Australian embassy; and Thomas Donohue, president and CEO of USCC

*This Week in Congress was written by Ryan Schnepf.*

**August 1**

***U.S. Customs and Border Protection (CBP) and Department of Homeland Security (DHS) meeting on Commercial Customs Issues:***

A meeting by webinar of the Commercial Customs Operations Advisory Committee (COAC). Agenda includes: Introductions by the Designated Federal Officer on the newly appointed, re-appointed, and alternate COAC members; Hear discussions from the Exports Subcommittee, the Trusted Trader Subcommittee, the Trade Modernization Subcommittee and the Trade Enforcement and Revenue Collection (TERC) Subcommittee; and Review, deliberate, provide observations and formulate recommendations on how to proceed.