

October 11, 2019

## Washington Update

### This Week In Congress

**House** – The House was in recess.

**Senate** – The Senate was in recess.

### Next Week In Congress

**House** –The House may consider [H.R. 1815](#), “The SEC Disclosure Effectiveness Testing Act,” and [H.R. 3624](#), “The Outsourcing Accountability Act.”

**Senate** – The Senate will consider several judicial nominations, as well as the nomination of Barbara Barrett to be Secretary of the Air Force. Senate Democrats may push for expedited consideration of a Congressional Review Act motion to repeal the EPA’s Affordable Clean Energy rule, which replaced the Obama Administration’s Clean Power Plan.

## TAX

### **SALT Regulations CRA Vote Possible in Senate in October**

#### *Key Points:*

- *Senate Minority Leader Schumer (NY) and Senator Cardin (D-MD) announced that they would use a disapproval resolution under the Congressional Review Act to “force a majority-threshold vote” to overturn the Treasury Department’s SALT deduction cap guidelines.*
- *The deadline for the vote is October 24.*

On Thursday, Senate Minority Leader Schumer (D-NY) and Senator Cardin (D-MD) announced that they would use a disapproval resolution under the Congressional Review Act to attempt to overturn recently released Treasury regulations targeting state programs designed to help taxpayers avoid the \$10,000 cap on the state and local tax deduction. According to the senators’ statements, their

aim is to “protect residents from ‘double taxation’ of their local charitable contributions and SALT deductions.” In June, the IRS and Treasury Department blocked workaround strategies proposed or enacted by state governments that would allow taxpayers to make charitable contributions to an established state fund in order to earn a credit.

The final regulations (T.D. 9864) went into effect August 12 and put a stop to several state programs that gave residents a credit for their contribution to education funds, as a workaround to the SALT cap enacted under the Tax Cuts and Jobs Act. New York was one

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of the first states to enact such a program in April. Many Democrats have complained about the cap since its inception, arguing that it is an assault on blue states mainly located on the coasts. In July, Senate Democrats filed a resolution of disapproval to invalidate the regulations.

Senator Schumer's office said the exact date of the resolution's vote has not been determined, but the deadline for it to occur is October 24.

### **Senator (and Presidential Candidate) Bernie Sanders Proposes an Income Equality Tax Plan**

#### *Key Points:*

- *The Sanders Income Inequality Tax Plan raises taxes on companies with revenues over \$100 million with extreme pay gaps between their executives and typical workers.*

On October 2, Senator and Presidential candidate Bernie Sanders (I-VT) released the [Sanders Income Equality Tax Plan](#), which would impose tax rate increases with on companies with CEO to median worker ratios above 50 to 1. The plan would apply to all privately and publicly held corporations with annual revenues over \$100 million. The tax penalties would begin at 0.5 percentage points for companies that pay their top executives between 50 and 100 times more than the average worker, and the highest penalty would apply to companies that pay top executives over 500 times the typical worker's pay. The Sanders campaign expects these rates to raise around \$150 billion over ten years and discourage American companies from paying their workers inadequate wages.

### **Senator (and Presidential Candidate) Elizabeth Warren Proposes Lobbying Taxes on Top U.S. Companies**

#### *Key Points:*

- *The tax would begin impacting companies that spend more than \$500,000 on lobbying.*
- *Revenue from the tax would be used to help Congress and federal agencies "fight back" against corporations and industries.*

On October 2, Senator and Presidential candidate Elizabeth Warren (D-MA) proposed a tax against companies that spend over \$500,000 on lobbying. According to her campaign, companies that spend between \$500,000 and \$1 million would pay a 35 percent tax on their expenditures and the tax would increase to 60 percent for companies spending more than \$1 million and 75 percent for those spending above \$5 million. Warren said her new lobbying tax "will make hiring armies of lobbyists significantly more expensive for the largest corporate influencers." Senator Warren's campaign said the tax's revenue would be used to help Congress and federal agencies push back against corporation and industries; while some of the money would go towards establishing a new Office of the Public Advocate.

Commenters have suggested that the proposal could run afoul of First Amendment protections on free speech and petitioning government.

### **Upcoming Hearings and Meetings**

#### **October 17**

The House Committee on Small Business, Subcommittee on Economic Growth, Tax, and Capital Access will hold a hearing entitled, "Can Opportunity Zones Address Concerns in the Small Business Economy?" The hearing

will take place 10:00 A.M. in Room 2360 of the Rayburn House Office Building.

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

## **FINANCIAL SERVICES**

### **SEC Issues Proposed Rule on NMS Plan Fee Amendments**

#### *Key Points:*

- *The proposed rule would require NMS plans to follow standard notice and comment procedures when creating or changing fees or other charges.*
- *NMS plan fee amendments are currently effective upon filing.*

On October 1, the Securities and Exchange Commission (SEC) issued a [proposed rule](#) to national market system plan (NMS plan) amendments which would establish or change a fee or other charge to be subject to the standard procedure for NMS plan amendments. The proposal would rescind a rule exception that allows an NMS plan amendment to be effective upon filing if it establishes or changes a fee or other charge. Under the proposal, NMS plan fee amendments would be subject to public comment and SEC approval before they can go into effect.

The SEC issued a [press release](#), which noted:

The proposal would rescind the Fee Exception and require that a Proposed Fee Change follow the standard procedure for NMS plan amendments. As a result, investors and other market participants could not be charged a new or altered fee until after the Proposed Fee Change was published, after

the public has an opportunity to comment, and after the Commission has approved the amendment. The proposal is intended to help ensure that NMS plan fees meet statutory requirements under the Exchange Act, including that they are fair and reasonable, before they go into effect.

The proposed rule will be subject to a 60 day comment period.

### **Federal Regulators Finalize Volcker Rule Simplifications**

#### *Key Points:*

- *The final rule implements streamlined compliance requirements for firms which do not have significant trading activity.*
- *The rule is intended to provide greater clarity as to what activities are allowed under the law.*

On October 8, the SEC, the Federal Reserve, the Commodity Futures Trading Commission (CFTC), the Office of the Comptroller of the Currency (OCC), and the Federal Deposit Insurance Commission (FDIC) finalized [revisions](#) to the Volcker Rule intended to simplify compliance.

As noted in a joint [press release](#):

Under the revised rule, firms that do not have significant trading activities will have simplified and streamlined compliance requirements, while firms with significant trading activity will have more stringent compliance requirements. Community banks generally are exempt from the Volcker rule by statute. The revisions continue to prohibit proprietary trading, while providing greater clarity and

certainty for activities allowed under the law. With the changes, the agencies expect that the universe of trades that are considered prohibited proprietary trading will remain generally the same as under the agencies' 2013 rule.

The rules will be effective as of January 1, 2020, and will have a compliance date of January 1, 2021.

### Treasury Issues Proposed Rule to Smooth Transition Away From LIBOR

#### Key Points:

- *Treasury issued proposed rules intended to provide certainty on the tax treatment of financial contracts which transition from LIBOR to alternative benchmarks.*

On October 8, the Treasury Department and the Internal Revenue Service (IRS) issued [proposed regulations](#) “allowing taxpayers to avoid adverse tax consequences from changing the terms of debt, derivatives, and other financial contracts to replace reference rates based on interbank offered rates (IBORs) with certain alternative reference rates.” The proposed rule is intended to provide guidance and certainty to market participants as they transition away from the London Interbank Offered Rate (LIBOR) to new alternative rates, like the Secured Overnight Financing Rate (SOFR).

In a press release, Treasury Secretary Steven Mnuchin stated:

A smooth and successful transition away from LIBOR and towards an alternative rate, such as SOFR, is important for the stability of global financial markets. These proposed regulations provide certainty and

clarity to taxpayers as they make the critical transition away from LIBOR.

The comment period on the proposal closes on November 25, 2019.

### Treasury and FHFA Modify Agreements with Fannie Mae and Freddie Mac to Allow Increased Capital Reserves

#### Key Points:

- *The modifications would allow Fannie Mae and Freddie Mac to retain capital reserves of \$25 billion and \$20 billion, respectively.*
- *Secretary Mnuchin said these changes are an important step towards Treasury's recommended reforms of the housing finance system.*

On September 30, the Treasury Department and the Federal Housing Finance Agency (FHFA) announced that they had agreed to modifications to the Preferred Stock Purchase Agreements (PSPAs) with Fannie Mae and Freddie Mac. The modifications would allow the Government Sponsored Enterprises (GSEs) to increase their capital reserves beyond their previous \$3 billion limits. Fannie Mae will be permitted to retain \$25 billion, while Freddie Mac will be permitted to retain \$20 billion.

In a [press release](#), Treasury Secretary Steven Mnuchin said, “[t]hese modifications are an important step toward implementing Treasury’s recommended reforms that will define a limited role for the Federal Government in the housing finance system and protect taxpayers against future bailouts.

The press release further explained:

To compensate Treasury for the dividends that it would have received absent these

modifications, Treasury’s liquidation preferences for its Fannie Mae and Freddie Mac preferred stock will gradually increase by the amount of the additional capital reserves until the liquidation preferences increase by \$22 billion for Fannie Mae and \$17 billion for Freddie Mac.

Treasury and each of Fannie Mae and Freddie Mac also agreed to negotiate an additional amendment to the PSPAs that would further enhance taxpayer protections by adopting covenants that are broadly consistent with the recommendations for administrative reforms contained in the Plan.

## Federal Reserve Finalizes Rules on Tailoring Bank Capital and Liquidity Requirements

### Key Points:

- *The Federal Reserve approved final rules to tailor liquidity and capital requirements for foreign and domestic banks.*
- *Governor Lael Brainard opposed the rules, arguing that they go too far in weakening safeguards implemented since the financial crisis.*

On October 10, the Federal Reserve Board finalized [rules](#) intended to tailor their regulations of foreign and domestic banks to more closely match their risk profiles. The rule was developed in conjunction with the OCC and the FDIC. A Federal Reserve [press release](#) explained:

The rules reduce compliance requirements for firms with less risk while maintaining the most stringent requirements for the largest and most complex banks.

The rules establish a framework that sorts banks with \$100 billion or more in total assets into four different categories based on several factors, including asset size, cross-jurisdictional activity, reliance on short-term wholesale funding, nonbank assets, and off-balance sheet exposure. Significant levels of these factors result in risk and complexity to a bank and can in turn bring risk to the financial system and broader economy.

Chairman Jerome Powell stated:

Our rules keep the toughest requirements on the largest and most complex firms. In this way, the rules maintain the fundamental strength and resiliency that has been built into our financial system over the past decade.

Vice Chairman for Supervision Randal Quarles added, “[t]he final rules maintain our objective from the proposals: develop a regulatory framework that more closely ties regulatory requirements to underlying risk.”

Governor Lael Brainard voted in opposition to the final rules, asserting that they go too far in weakening safeguards implemented since the financial crisis. In a [statement](#), she argued that “[a]t a time when the large banks are profitable and providing ample credit, I see little benefit to the banks or the system from the proposed reduction in core resilience that would justify the increased risk to financial stability in the future.”

The final rules will be effective 60 days after publication in the *Federal Register*.



## Upcoming Hearings and Meetings

### October 15

**FDIC Board Meeting:** The FDIC will hold a board meeting to consider two items: (1) Final Rule on Tailoring Capital and Liquidity Rule for Domestic and Foreign Banking Organizations; and (2) Amendments to 12 C.F.R. 381 - Final Rule.

### October 16

**CFPB Oversight:** The House Financial Services Committee will convene a hearing entitled, “Who is Standing Up for Consumers? A Semi-Annual Review of the Consumer Financial Protection Bureau.” Consumer Financial Protection Bureau (CFPB) Director Kathy Kraninger will testify at the hearing.

**TRIA:** The House Financial Services Committee’s Subcommittee on Housing, Community Development, and Insurance will convene for a hearing entitled, “Protecting America: The Reauthorization of the Terrorism Risk Insurance Program.”

**CFTC Open Meeting:** The CFTC will hold an open meeting to consider two items: (1) Proposed Rule: Amendment to Regulation 23.161 – Compliance Schedule Extension; and (2) Proposed Rule: Amendments to the Margin Rules for Uncleared Swaps.

### October 17

**CFPB Oversight:** The Senate Banking Committee will hold a hearing to discuss the Consumer Financial Protection Bureau’s Semi-Annual Report to Congress. CFPB Director Kathy Kraninger will testify at the hearing.

**Stock Buybacks:** The House Financial Services Committee’s Subcommittee on Investor Protection, Entrepreneurship, and Capital Markets will convene for a hearing entitled, “Examining Corporate Priorities: The

Impact of Stock Buybacks on Workers, Communities, and Investors.”

**Diversity:** The House Financial Services Committee’s Subcommittee on Diversity and Inclusion will convene for a hearing entitled, “Promoting Inclusion: Examining the Need for Diversity Practices for America’s Changing Workforce.”

### October 18

**Cloud Computing:** The House Financial Services Committee’s The Task Force on Artificial Intelligence will convene for a hearing entitled, “AI and the Evolution of Cloud Computing: Evaluating How Financial Data is Stored, Protected, and Maintained by Cloud Providers”

### October 22

**Housing Finance:** The House Financial Services Committee will convene for a hearing entitled, “The End of Affordable Housing? A Review of the Trump Administration’s Plans to Change Housing Finance in America.”

**Minority Financial Institutions:** The House Financial Services Committee’s Subcommittee on Consumer Protection and Financial Institutions will convene for a hearing entitled, “An Examination of the Decline of Minority Depository Institutions and the Impact on Underserved Communities.”

### October 23

**Facebook:** The House Financial Services Committee will hold a hearing entitled “An Examination of Facebook and Its Impact on the Financial Services and Housing Sectors.” Facebook Chairman and CEO Mark Zuckerberg is scheduled to testify at the hearing.

**October 24**

***CFTC Fintech Conference:*** The Commodity Futures Trading Commission (CFTC) will host its second annual financial technology (Fintech) conference. The event is entitled “Fintech Forward 2019: Exploring the Unwritten Future.”

**October 23-24**

***CFPB Advisory Committees:*** The Consumer Financial Protection Bureau (CFPB) will hold meetings of its Consumer Advisory Board, Community Bank Advisory Council, and Credit Union Advisory Council on October 23, followed by a combined advisory committee roundtable on October 24.

**October 25**

***CFPB Academic Research Council:*** The CFPB will hold a meeting of its Academic Research Council.

**October 29**

***Discrimination:*** The House Financial Services Committee’s Subcommittee on Oversight and Investigations will convene for a hearing entitled, “Financial Services and the LGBTQ+ Community: A Review of Discrimination in Lending and Housing.”

**October 29-30**

***Markup:*** The House Financial Services Committee will hold a markup of pending legislation. The agenda for the markup has not yet been announced.

*For more information about financial services issues you may email [Joel Oswald](mailto:Joel.Oswald@williamsandjensen.com) or [Alex Barcham](mailto:Alex.Barcham@williamsandjensen.com).*

**ENERGY & ENVIRONMENT****PHMSA Publishes Major Pipeline Safety Regulations***Key Points:*

- *The Department of Transportation’s Pipeline and Hazardous Materials Safety Administration published three significant pipeline safety regulations last week.*
- *The rules include broad updates and revisions to federal safety requirements for natural gas, crude oil, and refined product pipelines, as well as codifying the agency’s authority to issue emergency orders.*
- *The gas and hazardous liquid pipeline safety rules will be effective on July 1, 2020. The emergency order authority rule is effective on December 2, 2019.*

On October 1, 2019, the Pipeline and Hazardous Materials Safety Administration (PHMSA) published three significant final rules on pipeline safety:

- [“Enhanced Emergency Order Procedures”](#);
- [“Safety of Gas Transmission Pipelines: Maximum Allowable Operating Pressure Reconfirmation, Expansion of Assessment Requirements, and Other Related Amendments”](#); and
- [“Safety of Hazardous Liquid Pipelines”](#).

These final rules are the culmination of years of work by PHMSA, with input from stakeholders and the public through the notice and comment rulemaking process, as well as meetings of the agency’s Gas Pipeline Advisory Committee (GPAC) and Liquid Pipeline Advisory Committee (LPAC). The rules implement National Transportation Safety Board (NTSB) recommendations, as well as a series of congressional mandates included in the last two pipeline safety reauthorization laws:

- The “Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011” ([P.L. 112-90](#)); and
- The “Protecting our Infrastructure of Pipelines and Enhancing Safety (PIPES) Act of 2016” ([P.L. 114-183](#)).

### ***Safety of Gas Transmission Pipelines:***

The Department of Transportation’s [press release](#) announcing the Safety of Gas Transmission Pipelines final rule highlights two of the major provisions:

- “requires operators of gas transmission pipelines constructed before 1970 to determine the material strength of their lines by reconfirming the Maximum Allowable Operating Pressure (MAOP);” and
- “updates reporting and records retention standards for gas transmission pipelines.”

PHMSA developed this rulemaking with an [Advanced Notice of Proposed Rulemaking](#) (ANPRM), published on August 25, 2011, and a [Notice of Proposed Rulemaking](#) (NPRM), published on April 8, 2016. The final rule’s effective date is July 1, 2020.

### ***Safety of Onshore Hazardous Liquid Pipelines:***

The Department of Transportation’s press release states that the Safety of Onshore Hazardous Liquid Pipelines final rule:

- “encourages operators to make better use of all available data to understand pipeline safety threats and extends leak detection requirements to all non-gathering hazardous liquid pipelines;” and
- “requires operators to inspect affected pipelines following an extreme weather

event or natural disaster so they may address any resulting damage.”

PHMSA published an [ANPRM](#) on October 8, 2010 and published the [NPRM](#) on October 13, 2015. The Safety of Onshore Hazardous Liquid Pipelines final rule is also effective on July 1, 2020.

### ***Emergency Order Authority:***

On October 14, 2016, PHMSA published an [Interim Final Rule](#) (IFR) establishing “Enhanced Emergency Order Procedures” for pipelines. PHMSA issued the rule to implement Section 16 of the PIPES Act, which authorizes the Secretary of Transportation to issue emergency orders related to pipeline safety if “an unsafe condition or practice, or a combination of unsafe conditions and practices, constitutes, or is causing an imminent hazard...” The Interim Final Rule closely tracked the language included in Section 16 of the PIPES Act in establishing the criteria, contents and appeals process for pipeline safety emergency orders. The final rule is effective on December 2, 2019

### **Forum Examines Pipelines and Landowner Rights**

#### *Key Point:*

- *On Wednesday, the R Street Institute hosted a forum to discuss landowner rights in the context of construction of interstate natural gas pipelines.*

On October 9, the R Street Institute held a [panel discussion](#) titled “Pipelines and Property Rights: Are They in Conflict?” The discussion focused on the use of eminent domain authority under the Natural Gas Act for the siting of interstate natural gas pipelines. Don Santa, the President and CEO of the Interstate Natural Gas Association of America (INGAA)



described the trade association’s “Commitment to Landowners”, as well as the policy basis for providing eminent domain authority to natural gas pipelines certificated by the Federal Energy Regulatory Commission (FERC). Megan Gibson of the Niskanen Center asserted that landowners do not fully understand the process and frequently waive their rights because of that lack of understanding.

Don Santa, President and CEO, INGAA, explained that Congress enacted the Natural Gas Act in 1938, and amended it in 1947 to provide eminent domain authority for certificated interstate natural gas pipelines. He noted that unlike oil and refined products, there are no intermodal alternatives for transporting natural gas. Santa also discussed the [INGAA Commitment to Landowners](#), which includes promises to: provide accurate and timely information; negotiate in good faith; and “begin every easement negotiation with the expectation that a mutual agreement can be reached and eminent domain rights will not need to be exercised.”

Megan Gibson, Staff Attorney, Niskanen Center, asserted that the process is “stacked against landowners” from “beginning to end”. She also said that landowners received conflicting information about how to protect their rights in the FERC process. Gibson expressed hope that “FERC will be open to outlining simple instructions to landowners” including the requirement for them to intervene in the process in order to preserve their rights.

William Murray, Manager, Energy, R Street Institute, outlined principles for considering the use of eminent domain authority for natural gas pipelines: “try to do no net harm”; negotiate in good faith; and recognize the importance of the Commerce Clause. He noted that the Supreme Court will hear arguments in the [Atlantic Coast](#)

[Pipeline case](#) and likely issue a decision by June 2020.

## Upcoming Hearings and Events

### October 17

***Strategic Petroleum Reserve:*** The Senate Energy and Natural Resources Committee will hold a [hearing](#) “to examine the status of the Strategic Petroleum Reserve and related energy security issues.”

***Industry Emissions Reductions:*** The Senate Environment and Public Works Committee’s Subcommittee on Clean Air and Nuclear Safety will hold a [hearing](#) entitled, “Reducing Emissions While Driving Economic Growth: Industry-led Initiatives.”

***Greenhouse Gas Emissions Reductions:*** The House Natural Resources Committee’s Subcommittee on Energy and Mineral Resources will hold a hearing titled “The Case for Climate Optimism: Realistic Pathways to Achieving Net Zero Emissions”.

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

*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](#).*

## HEALTH

### **HHS Releases Proposed Rules on Anti-Kickback, Stark Law Reforms**

#### *Key Points:*

- *The Department of Health and Human Services' Office of the Inspector General and the Centers for Medicare and Medicaid Services released proposed rules to modernize the Stark Law and the federal Anti-Kickback Statute.*
- *The aim of the proposed rules is to provide greater certainty for providers participating in value-based arrangements and providing coordinated care.*

On October 9, the Department of Health and Human Services (HHS) announced two proposed rules aimed at modernizing the Stark Law and the Anti-Kickback Statute. These proposed rules are part of HHS' Regulatory Sprint to Coordinated Care which aims to remove federal impediments to value-based care. They aim to address stakeholder concerns that the laws unnecessarily limit

HHS Secretary Alex Azar Deputy asserted these rules will “provide an unprecedented opportunity for providers to work together to deliver the kind of high-value, coordinated care that patients deserve.” HHS Deputy Secretary Eric Hargan called these proposed rules “a historic reform to how healthcare is regulated in America.”

The proposed rule released by the Office of the Inspector General seeks to make several changes to the Anti-Kickback Statute safe harbors to improve coordinated patient care and foster improved quality outcomes. The proposal includes three new safe harbors for certain remuneration exchanged between eligible providers in a value-based arrangement. There are also proposed safe harbors for tools

to improve patient engagement and for certain remuneration in connection with Centers for Medicare and Medicare Services (CMS) models. Other existing safe harbors would be modernized including those for electronic health records, cybersecurity services, and outcomes-based payments.

The proposed rule released by CMS would create a permanent exception to the Stark Law for value-based arrangements. Providers would be permitted to design and enter into value-based arrangements to better coordinate care and improve quality for patients. The proposed rule includes several safeguards to ensure there is still protection against fraud and abuse. CMS is also soliciting comments on the role of price transparency should have at the point of a referral.

Read more on the proposed rules [here](#).

### **President Trump Signs Executive Order on Medicare**

#### *Key Point:*

- *President Donald Trump signed an Executive Order to strengthen the Medicare program by increasing choice, improving access to innovation, and reduce administrative burdens.*

On October 3, President Donald Trump signed an Executive Order entitled “Protecting and Improving Medicare for Our Nation's Seniors.” The Order aims to strengthen the Medicare program in response to Medicare for All proposals. It stresses Medicare for All would eliminate health care choice for Americans and harm seniors.

The Order requires the Secretary of the Department of Health and Human Services to issue a proposed rule within one year and implement other administrative action to

enable Medicare to provide beneficiaries with more plan options. These actions include:

- Encouraging innovative Medicare Advantage benefit structures including guidance to reduce barriers to obtaining Medicare Medical Savings Accounts;
- Develop a payment model that adjusts supplemental Medicare Advantage benefits to all beneficiaries to share more directly in savings; and
- Ensure fee-for-service (FFS) Medicare is not advantaged or promoted over Medicare Advantage.

Within one year, the Secretary must also propose several regulations including

- Adjusting the network adequacy requirements for Medicare Advantage plans to improve access;
- Enabling providers to spend time with patients such as eliminating burdensome billing requirements, ensuring appropriate reimbursement for time spent with patients, and reviewing policies that create disparities between physician and non-physician practitioners.
- Improving access to innovative products; and
- Providing seniors with better quality and cost data.

Read the full Order [here](#).

## Upcoming Hearings and Meetings

### October 16

***E-Cigarettes:*** The House Appropriations Committee will hold a hearing on “E-cigarettes: An Emerging Threat to Public Health.”

***E-Cigarettes:*** The House Energy and Commerce Committee will hold a hearing on

“Legislation to Reverse the Youth Tobacco Epidemic.”

### October 17

***Drug Pricing:*** The House Ways and Means Committee will hold a hearing on “Investing in the U.S. Health System by Lowering Drug Prices, Reducing Out-of-Pocket Costs, and Improving Medicare Benefits.”

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

## TRADE

### **U.S.-China Trade Talks – Latest Round of Talks in U.S.**

*Key Points:*

- *Thursday meetings between U.S. and Chinese trade officials reportedly were productive; President Trump is meeting with Chinese Vice Premier Liu He today.*
- *A partial deal concerning currency provisions and agricultural products seems likely in exchange for freezing tariff increases.*

This week’s talks between U.S. and Chinese trade negotiators, due to wrap up at the White House today, could lead to a deal in which the U.S. agrees not to increase tariffs in return for an agreement on currency provisions, as well as greater purchases of U.S. agricultural products. However, the prospect of a comprehensive deal appears unlikely despite thirteen rounds of negotiations, according to business representatives, China analysts, and trade lawyers. Along those lines, this morning President Trump tweeted, “Good things are happening at China Trade Talks...I will be meeting with the Vice Premier today. All would like to see something significant happen!”

President Trump has previously announced that the U.S. will increase tariffs on \$250 billion worth of Chinese goods from 25 percent to 30 percent on Oct. 15. However, the Office of the U.S. Trade Representative (USTR) has not yet issued a Federal Register notice to formally schedule that increase. Additionally, Customs and Border Protection (CBP), the agency that collects the duties, has not yet received further guidance from USTR on the potential tariff increase, according to a CBP spokesman.

Myron Brilliant, the U.S. Chamber of Commerce's executive vice president and head of international affairs told reporters Thursday that the U.S. and China are "trying to find a path toward a bigger deal by making progress in market access, making progress on intellectual property protections and making progress in some other critical areas. I am pleased that there's even the possibility of a currency agreement this week. I think that could even lead to a decision by the U.S. administration not to put forward a tariff rate hike on Oct. 15."

However, this progress comes amid growing tensions between the two countries. Over the past two weeks, the U.S. has taken steps against China by sanctioning Chinese businesses under the export control regime, issuing a visa ban for some Chinese officials accused of human rights violations, and reportedly considering investment restrictions on Chinese businesses. Additionally, the U.S. is expected to issue an interim rule on the information communication technology supply chain next week that is may restrict U.S. companies' ability to buy Chinese information and communication technology goods.

## USMCA Developments

### *Key Points:*

- *House Democrats and USTR Lighthizer are working to finish USMCA negotiations by the end of October.*
- *Some Republicans are still skeptical that Speaker Pelosi will bring the USMCA to the floor for a vote, believing that she is instead focusing on impeachment.*
- *Ways and Means Chairman Neal (D-MA) returned from meeting on labor issues in Mexico, where he met with the Mexican President and others - though no breakthrough apparently occurred.*

According to sources familiar with the negotiations, House Democrats and USTR Robert Lighthizer are pushing to wrap up negotiations on outstanding U.S.-Mexico-Canada Agreement (USMCA) issues by the end of October. USTR Lighthizer is scheduled to meet with the working group Wednesday of next week to continue discussion, with the issues of most concern being the deal's enforcement, labor, environment and biologics provisions. Some sources have suggested that the majority of the negotiating had been finished, and ratification of a deal before Thanksgiving is a strong possibility. The actual proposals are classified, so details have not been forthcoming.

House Ways & Means Committee Chairman Richard Neal (D-MA) led a congressional delegation to Mexico City this week to meet with Mexican President Andrés Manuel López Obrador and other Mexican officials about outstanding issues with the country's implementation of labor reforms called for in USMCA. Additionally, President López Obrador reportedly sent a letter to House Speaker Nancy Pelosi (D-CA) on Tuesday asking for an expeditious USMCA approval. Chairman Neal, in a statement on Tuesday,

called the visit positive and added that the working group continued to work “closely and productively with USTR.” House Ways & Means Trade Subcommittee member Bill Pascrell (D-NJ) on Tuesday called the trip a success, but added in a statement that House Democrats “must know that Mexico is serious about beginning a new chapter before we rush to judgement on a new agreement. We’ll have a suitable agreement only when the hard terms match that aspiration.”

Meanwhile, Republicans are growing more impatient to pass the USMCA. Representative Tom Rice (R-SC) tweeted on Wednesday, “[i]t has been 313 days since the President signed the USMCA with Mexico and Canada, and yet still no vote. Instead, the Democrats continue to try to undo the 2016 election. They struck out with the Kavanaugh hearings and they struck out with the Mueller Investigation. Speaker Pelosi is denying the American people the grand slam they deserve by not bringing USMCA to the House floor for a vote.” Senate Finance Committee Chairman Chuck Grassley (R-IA) has publicly defended Speaker Pelosi, stating that he believes that she wants to get to a yes vote on the USMCA. He told reporters on Wednesday that it “would not be wise” to mix impeachment with USMCA ratification “because the American people don’t like those kinds of political games.”

The USMCA agreement appears to have positive momentum but the final changes and a decision to move forward have yet to occur. A late fall or early winter vote remains the expected outcome, but not the guaranteed outcome.

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

*This Week in Congress was written by Alex Barcham.*