

March 12, 2021

Washington Update

This Week In Congress

House – The House passed the American Rescue Plan Act ([H.R. 1319](#)), as amended by the Senate. The bill was signed into law by President Biden on Thursday. The House also passed the Bipartisan Background Checks Act ([H.R. 8](#)), the Enhanced Background Checks Act ([H.R. 1446](#)), and the Protecting the Right to Organize Act ([H.R. 842](#)).

Senate – The Senate confirmed the nominations of Marcia Fudge to be Secretary of Housing and Urban Development, Merrick Garland to be Attorney General, and Michael Regan to be Administrator of the Environmental Protection Agency.

Next Week In Congress

House – The House is expected to vote on the American Dream and Promise Act ([H.R. 6](#)), the Farm Workforce Modernization Act ([H.R. 1603](#)), the Violence Against Women Reauthorization Act ([H.R. 1620](#)), legislation to extend the Paycheck Protection Program (PPP) application deadline to May 31, 2021, and a resolution to remove the deadline for ratification of the Equal Rights Amendment ([H.J.Res. 17](#)).

Senate – The Senate is expected to continue its consideration of pending nominations, including Xavier Becerra to be Secretary of Health and Human Services, Deb Haaland to be Secretary of the Interior, Katherine Tai to be U.S. Trade Representative, and Isabella Casillas Guzman to be Administrator of the Small Business Administration.

TAX

President Biden Signs American Rescue Plan into Law

Key Point

- *President Biden signed the American Rescue Plan into law on Thursday, just one day after the Senate-amended version of the bill also passed the House.*

On Thursday, President Biden signed the American Rescue Plan ([H.R. 1319](#)) into law, after the House passed the Senate-amended version of the bill earlier in the week. The bill passed the House without a single Republican vote and with one Democratic Congressman, Representative Golden (D-ME), voting against the bill. The American Rescue Plan includes a number of relevant tax provisions including:

- Making the first \$10,200 in unemployment benefits tax-free in 2020 for taxpayers making less than \$150,000 a year.

- Providing a \$1,400 recovery rebate credit, \$2,800 for those taxpayers filing jointly, and \$1,400 for each dependent.
- Increasing the Child Tax Credit from \$2,000 to \$3,000, and \$3,600 for children under the age of 6. It also phases-out the credit for taxpayers filing jointly making over \$150,000.
- Making the Child Tax Credit refundable for 2021 and allowing 17-year-old dependents to qualify for the credit.
- Modifying the minimum age for the Earned Income Tax Credit to 19 and 24 for full-time students and eliminating the maximum age for the credit.
- Increasing the phase-out percentage for the Earned Income Tax Credit to 15.3% and increasing the disqualifying investment income threshold from \$2,200 to \$10,000.
- Increasing the Paid Family Leave Credit to \$12,000.

The Senate Democratic summary of the American Rescue Plan can be found [here](#).

International Tax Issues Gaining Profile

Key Point

- *A white paper from Senate Finance is expected soon on international tax proposals, and a progressive bill is introduced by two Democratic tax writers.*

The Senate Finance Committee is expected to hold a hearing in two weeks on international tax issues, and there may be a white paper issued by Chairman Wyden (D-OR) with his potential proposals on reforming the U.S. international tax system.

Meanwhile, Senate Finance Member Sheldon Whitehouse (D-RI) and Ways and Means Committee member Rep. Doggett (D-TX) introduced the “[No Tax Breaks for Outsourcing Act](#)” as well as their previously introduced “[Stop Tax Haven Abuse](#)” bill. The No Tax Breaks for Outsourcing Act is a fairly substantial proposed reform of international tax system for the U.S., possibly as a marker for a progressive tax approach to “offshoring.” The lawmakers’ legislation ([summary press release](#)) would eliminate the lower rate for GILTI and the exception for ordinary returns while eliminating FDII; apply a management and control test on companies to treat them as domestic; apply a stricter test for inverted companies starting with the date of enactment of TCJA; limit section 163(j) for foreign multinationals; and eliminate foreign tax credits for royalties paid on foreign oil and gas extraction.

Action on international tax issues could be part of the next reconciliation bill, covering clean energy and infrastructure, potentially. The ideas embodied in these bills and a Senate Finance white paper could come into play, as well as those offered by the [Biden campaign](#) during 2020.

Ways and Means Chairman Neal Seeks to Make the Enhanced Child Tax Credit Permanent

Key Point

- *House Ways and Means Committee Chairman Neal poised to push for enhanced Child Tax Credit permanence.*

The American Rescue Plan, which was signed into law on Thursday, included an expansion of the Child Tax Credit from \$2,000 to \$3,000 and \$3,600 for children under the age of 6. The payments will be made monthly starting later this year to eligible families.

Earlier in the week, House Ways and Means Committee Chairman Neal (D-MA) told reporters that permanence of the Child Tax Credit would be on the horizon. Expanding the child tax credit has been a priority for Chairman Neal and several other Ways and Means Committee members, including Representative DelBene, (D-WA), but Chairman Neal did not discuss his plan on how they might pay for the bill to reporters. A child tax credit expansion would most likely be paired with an expansion of the earned income tax credit (EITC), another priority for Chairman Neal, who has previously said the EITC also helps low-income individuals stay above the poverty line.

White House Announces New Key Treasury Appointments, Including A/S for Tax Policy

Key Point

- *Earlier this week the White House announced a number of key Treasury Department appointments.*

The [White House has announced](#), and Treasury confirmed, that Lily Batchelder will be nominated to be the Assistant Secretary of Treasury for Tax Policy. Prof. Batchelder has previously been Chief Tax Counsel for the Senate Finance Committee and staff in the Obama White House, and is now a [law professor at NYU](#). Additionally, the White House announced that Jonathan Davidson, who is currently serving as Chief of Staff for Senate Finance Committee member Senator Bennet (D-CO), will be nominated to be Assistant Secretary of Treasury for Legislative Affairs.

Upcoming Hearings and Meetings

March 16

10:00 am - Tax Code and Manufacturing: The Senate Finance Committee will hold a hearing on [“Made in America: Effect of the U.S. Tax Code on Domestic Manufacturing.”](#) The Committee will hear testimony from George S. Davis, EVP and CFO of Intel; Jonathan Jennings, VP of Ford; Jay Timmons, CEO of the National Association of Manufacturers; Professor Michelle Hanlon, Ph.D. of the Sloan School of Management at MIT; and Donnie Blatt of the United Steelworkers. 10:00 am, by webcast.

March 18

2:00 pm – IRS Filing Season: The House Ways and Means Committee will hold a hearing entitled [“Oversight Subcommittee Hearing with the IRS Commissioner on the 2021 Filing Season.”](#) IRS Commissioner Rettig will testify at 2:00 pm, by webcast.

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

FINANCIAL SERVICES

Senate Banking Committee Advances Gensler, Chopra Nominations

Key Points:

- *The Committee advanced Gary Gensler’s nomination to be Chairman of the SEC by a vote of 14-10.*

- *The Committee split 12-12 on Rohit Chopra’s nomination to lead the CFPB. Under the Senate power sharing agreement, Chopra’s nomination will be advanced using a discharge motion.*

On Wednesday, the Senate Banking Committee held an executive session to consider the nominations of Gary Gensler to be Chairman of the Securities and Exchange Commission (SEC) and Rohit Chopra to be Director of the Consumer Financial Protection Bureau (CFPB). The Committee favorably reported Gensler’s nomination by a vote of 14-10. All twelve Democrats on the Committee vote in favor of advancing Gensler’s nomination, along with Senators Cynthia Lummis (R-WY) and Mike Rounds (R-SD).

The Committee split 12-12 on Chopra’s nomination. As allowed under the Senate’s power share agreement, Chairman Brown announced he would transmit a notice to the Senate, giving the Majority Leader authority to make a discharge motion so the full Senate can vote on his nomination.

A timeline for the full Senate to vote on the nominations has not been announced.

Senate Banking Committee Holds Hearing on GameStop and Robinhood

Key Point:

- *Key topics of discussion at the hearing included payment for order flow, the settlement cycle for securities, and financial transaction taxes.*

On March 9, the Senate Banking Committee held a [hearing](#) entitled “Who Wins on Wall Street? GameStop, Robinhood, and the State of Retail Investing.” Chairman Sherrod Brown (D-OH), in a [statement](#), asserted that the stock market is detached from the economy and the reality facing most Americans. He stated that only half of the jobs lost during the pandemic have been recovered, but the stock market is continuing to rise. Brown stated that financial technology (fintech) has given rise to zero commission trading platforms like Robinhood, which claim to democratize stock trading. He said the rapid rise of GameStop’s stock price shows how retail investors can affect the market, but also demonstrates the risk in the market. He raised concerns that hedge funds and insiders will continue to reap the vast majority of the profit, which he suggested is bad for everyone in the long run. Brown said Robinhood blamed its decisions to cut off trading in GameStop shares on industry-wide standards for processing stock purchases. He urged the Securities and Exchange Commission (SEC) to take action to reduce the risk in the market by cutting the time it takes stocks to settle. He said firms like Robinhood were founded on a model that exploits small investors by encouraging “fast and loose trading” and then selling that trading to big market players.

Ranking Member Pat Toomey (R-PA) said the market volatility in January has attracted a great deal of attention, stressing the need to carefully assess this situation. He urged members to avoid kneejerk reactions to impose new regulations, asserting that they have yet to see any evidence of wrongdoing or that the regulatory regime failed. He said market developments have made this a great time for retail investors, pointing to the rise of zero commission trading and mobile apps. Toomey stated that market maker competition allows brokers to meet their best execution obligations, obtain a better price for investors, receive payment for order flow (PFOF) and charge zero commissions. He said app-based trading platforms make it easier to access the market, including through the purchase of fractional shares.

He stated that these developments have led to broader participation in the stock market, including among low and middle-income households. Toomey disputed claims that the market is rigged against retail investors, pointing out that retail investors receive dividends, are entitled to best execution, and benefit from increases in stock prices, just like institutional investors. He said Americans do not need big government to limit their access to the stock market. Toomey said he agrees with Chairman Brown on the need for a faster settlement cycle, stating that it will reduce risk and the need for collateral. He noted that he and House Financial Services Committee Ranking Member Patrick McHenry (R-NC) sent a letter to the SEC urging them to follow through on their long-standing objective of moving to a faster settlement cycle.

Chairman Brown and Senators Bob Menendez (D-NJ), Mark Warner (D-VA), and Catherine Cortez Masto (D-NV) raised concerns with the impact of the PFOF model on retail investors. Professor Gina-Gail Fletcher (Duke University School of Law) said PFOF allows brokers to offer zero commission trading subsidized by wholesalers. She said the problem is that PFOF undermines the relationship between the broker and their clients, because brokers are incentivized to put their own profit-seeking interests above the client's interest when routing orders, putting retail investors in a worse position. Michael Piwowar (Milken Institute Center for Financial Markets; Former SEC Commissioner) stated that the PFOF model should not be banned without proper study. He said if PFOF were banned, it is highly likely commission trading would return, and it would simply shift the conflict of interest to churning accounts. He suggested that the SEC should study and look at all the costs and benefits.

Senator Thom Tillis (R-NC) spoke in opposition imposing a financial transaction tax (FTT), while Senator Chris Van Hollen (D-MD) spoke in support. Tillis said that reputable studies have indicated FTTs would reduce the overall value of an everyday investor's 401(k) by as much as 8.5 percent, which could be an extra 2.5 years for someone to make up that amount of lost savings. Van Hollen asserted that an FTT would help to address high frequency trading, which he said would allow investments in other policies for Americans, reduce wealth inequality, and reduce market volatility. He noted that he and Senator Brian Schatz (D-HI) will soon reintroduce their bill to impose an FTT.

House Financial Services Holds Hearing on Racial Equity in Housing and Financial Services

Key Points:

- *The Committee discussed legislation to expand minority access to homeownership and to the financial system.*
- *The Committee also discussed legislation to require public companies to make disclosures regarding the diversity of their leadership.*

On March 10, the House Financial Services Committee held a [hearing](#) entitled “Justice for All: Achieving Racial Equity Through Fair Access to Housing and Financial Services.”

The hearing focused on the following legislation:

- [H.R. 123](#), the “FHA Additional Credit Pilot Program Reauthorization Act.”
- [H.R. 1277](#), the “Improving Corporate Governance Through Diversity Act.”
- [H.R. 281](#), the “Ensuring Diverse Leadership of 2019.”
- [H.R. 68](#), the “Housing Fairness Act of 2021.”
- [H.R. _____](#), a bill to address discrimination in appraisals.

- [H.R. _____](#), a bill to diversify the Federal Home Loan Bank Board of Director.
- [H.R. _____](#), a bill to provide down payment assistance.
- [H.R. _____](#), the “Diversity Data Accountability Act.”
- [H.R. _____](#), the “Diverse Investment Advisers Act.”
- [H.R. _____](#), the “Making FHA Work for Borrowers with Student Debt Act.”
- [H.J.Res. _____](#), Resolution of Disapproval on the OCC’s Community Reinvestment Act Final Rule.
- [H.R. _____](#), the “Federal Reserve Racial and Economic Equity Act.”
- [H.R. 166](#), the “Fair Lending for All Act.”
- [H.R. _____](#), the “Promoting and Advancing Communities of Color Through Inclusive Lending Act.”
- [H.R. _____](#), the “Minority Business Emergency Grants Act.”
- [H.R. _____](#), the “Minority Business Development Administration Act.”
- [H.R. _____](#), the “Home Loan Quality Transparency Act.”
- [H.R. _____](#), the “Promoting Diversity and Inclusion in Banking Act.”
- [H.R. _____](#), the “Expanding Opportunity for MDIs Act.”
- [H.R. _____](#), a bill to promote language access in mortgage servicing
- [H.R. _____](#), the “Ensuring Diversity in Community Banking Act.”
- [H.R. _____](#), the “Federal Reserve Bank Board Diversity Act”
- [H.R. _____](#), the “Diversity in Financial Regulatory Advisory Committees Act “
- [H.J.Res. _____](#), Resolution of Disapproval on HUD’s Preserving Community and Neighborhood Choice Rule (85 FR 47899).
- [H.R. _____](#), the “LEP Data Acquisition in Mortgage Lending Act.”
- [H.J.Res. _____](#), Resolution of Disapproval on HUD’s Disparate Impact Rule (85 FR 60288).

Chairwoman Maxine Waters (D-CA) stated that American history is marked by injustices against people of color. She said institutional barriers persist in impeding racial equity, which curtail opportunities for communities to color to build wealth. She noted that a 2018 report found that “modern day redlining” persists in 61 metropolitan areas, even accounting for differences in income. Waters said minority-owned businesses have closed at a higher rate than White-owned businesses during the pandemic, and minority-owned businesses have struggled to access relief programs. She suggested minorities remain underrepresented in government, noting that there has never been an African-American head of the Securities and Exchange Commission (SEC) or the Federal Reserve.

Ranking Member Patrick McHenry (R-NC) asserted that racism is real, stressing that the problem must be acknowledged before it can be addressed. He noted the drops in unemployment and increases in income for all races prior to the pandemic. He stated that the pandemic has erased many of these gains, stressing the need to get Americans back to work, students back into classrooms, and targeted relief to those in need. McHenry stressed the need to fix the problems in the system, rather than attempting to dismantle the U.S. economic system. He emphasized the need to expand access to educational choices. He said Congress should focus on addressing barriers to saving.

Federal Reserve Extends PPP Liquidity Facility, Will Allow Other Facilities to Expire

Key Points:

- *The Federal Reserve extended the PPPLF through June 30.*
- *The Commercial Paper Funding Facility, the Money Market Mutual Fund Liquidity Facility, and the Primary Dealer Credit Facility will be allowed to expire on March 31.*

On March 8, the Federal Reserve Board announced it was extending the Paycheck Protection Program Liquidity Facility (PPPLF), by three months to June 30, 2021. A press release noted:

The extension will provide continued support for the flow of credit to small businesses through the Paycheck Protection Program, or PPP.

The PPPLF extends term credit to financial institutions making PPP loans, accepting the PPP loans as collateral. The liquidity provided by the PPPLF helps eligible financial institutions fund additional PPP loans. The PPPLF was established under the Board's 13(3) authority and the extension from March 31 to June 30, 2021, was approved by the Secretary of the Treasury.

The Federal Reserve also announced, “The other currently active 13(3) facilities—the Commercial Paper Funding Facility, the Money Market Mutual Fund Liquidity Facility, and the Primary Dealer Credit Facility—have not had significant usage since last summer and will expire as scheduled on March 31.”

Upcoming Hearings and Meetings

March 17

GameStop: The House Financial Services Committee will hold a hearing entitled “Game Stopped? Who Wins and Loses When Short Sellers, Social Media, and Retail Investors Collide, Part II.”

March 18

Diversity: The House Financial Services Committee’s Subcommittee on Diversity and Inclusion will hold a hearing entitled “By the Numbers: How Diversity Data Can Measure Commitment to Diversity, Equity and Inclusion.”

Climate Change: The Senate Banking Committee will hold a hearing entitled “21st Century Economy: Protecting the Financial System from Risks Associated with Climate Change.” The witnesses at the hearing will be Dr. Nathaniel Keohane, Senior Vice President, Climate, Environmental Defense Fund; Ms. Marilyn Waite, Climate and Clean Energy Finance Program Officer, The William and Flora Hewlett Foundation; Dr. John Cochrane, Senior Fellow, Hoover Institution, Stanford University; and Dr. Benjamin Zycher, Resident Scholar, American Enterprise Institute.

March 19

Asset Management Advisory Committee: The SEC will hold a meeting of its Asset Management Advisory Committee (AMAC). The agenda for the meeting includes panels on recommendations from the ESG, Diversity and Inclusion, and Private Investments Subcommittees.

March 23

Treasury/Federal Reserve: The House Financial Services Committee will hold a hearing entitled “Oversight of the Treasury Department’s and Federal Reserve’s Pandemic Response.”

March 24

Public Housing: The House Financial Services Committee’s Subcommittee on Housing, Community Development and Insurance will hold a hearing entitled “Preserving a Lifeline: Examining Public Housing in a Pandemic.”

March 25

Human Trafficking: The House Financial Services Committee’s Subcommittee on National Security, International Development and Monetary Policy will hold a hearing entitled “Ending Exploitation: How the Financial System Can Work to Dismantle the Business of Human Trafficking.”

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

HEALTH

HHS Delays Insulin, Epinephrine Rule

Key Points:

- *The Department of Health and Human Services announced it will delay the effective date of the rule requiring health centers participating in the 340B program to provide low-cost insulin and epinephrine to patients.*
- *The Biden Administration is extending the effective date to July 20, 2021.*

On March 11, the Department of Health and Human Services (HHS) published a [notice](#) in the Federal Register that it will be delaying the effective date of the rule entitled “Implementation of Executive Order on Access to Affordable Life-saving Medications” to July 20, 2021. The rule, implemented by the Trump Administration, had already been delayed once from the initial effective date of January 22, 2021. This delay is to allow HHS additional opportunity to review and consider the rule.

The [rule](#) requires Federally Qualified Health Centers participating in the 340B program to make insulin and injectable epinephrine available to patient at or below the discounted price the health centers have paid under the 340B program. It applies to patients with incomes below 350 percent of the federal poverty level who have high-cost sharing, a high deductible, or not insurance at all. The aim of the rule is to address affordability concerns for these medications.

Upcoming Hearings and Meetings

March 16

Medicare: The Bipartisan Policy Center will hold an event on “Will Medicare Run Out of Money?”

March 17

Nominations: The Senate Health, Education, Labor and Pensions Committee will hold a markup to consider the nominations of Vivek Murthy, to be Surgeon General of the Public Health Service, and Rachel Levine, to be an Assistant Secretary, both of the Department of Health and Human Services, and other pending calendar business.

Vaccines: The House Energy and Commerce Committee will hold a hearing on “Leading the Way Forward: Biden Administration Actions to Increase COVID-19 Vaccinations.”

Nursing Homes: The Senate Finance Committee will hold a hearing on “A National Tragedy: COVID-19 in the Nation’s Nursing Homes.”

March 18

Health Disparities: The Senate Aging Committee will hold a hearing on “COVID-19 One Year Later: Addressing Health Care Needs for At-Risk Americans.”

COVID-19: The Senate Health, Education, Labor and Pensions Committee will hold a hearing on “Examining Our COVID-19 Response: An Update from Federal Officials.”

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

TRADE**U.S., EU Suspend Tariffs in Airbus-Boeing Dispute***Key Points:*

- *The U.S. and European Union (EU) announced the suspension of tariffs related to the Boeing-Airbus dispute for four months.*

Last Friday, the U.S. European Union (EU) announced that tariffs related to the Boeing-Airbus dispute would be suspended for four months. The suspension will cover tariffs on both aircraft and non-aircraft products and will become effective as soon as the internal procedures on both sides are completed, according to a [joint statement](#). The two sides asserted that they are “committed to reach a comprehensive and durable negotiated solution to the Aircraft disputes.” The U.S. and United Kingdom (U.K.) announced a similar four-month suspension the day before.

Tariffs imposed on the U.K. stem from a 2019 World Trade Organization (WTO) ruling that authorized the U.S. to impose duties on up to \$7.5 billion in European products in retaliation for European Union (EU) subsidies provided to Airbus. The EU was also authorized by the WTO to retaliate against the U.S. for subsidies provided by the State of Washington to Boeing.

U.S., EU Reach Deal on TRQs

Key Points:

- *The deal suggests a de-escalation of tensions on several fronts between the U.S. and EU.*

The U.S. and European Union (EU) have reached a deal on tariff-rate quotas (TRQs) that had to be renegotiated after the United Kingdom (U.K.) left the bloc. The negotiations took place under World Trade Organization (WTO) procedures and will determine how to split TRQ quantities between the EU and the U.K. The parties will sign and implement the agreement after the EU completes “formal approval procedures. TRQs allow countries to export specified quantities of a product to other nations at lower tariff rates but subject all imports of the product above a pre-determined threshold to a higher tariff.

China Issues Subject of Several Hearings Next Week, Senate Legislation Coming

Key Points:

- *The hearings in several committees are setting out the basis for action on a series of bills introduced by then-Ranking members of many Senate committees in the fall of 2020.*

Several committees will hold hearings on various aspects of China, trade, technology practices, and impacts on the U.S. The hearing below in the Finance Committee on forced labor is one aspect, but there will be other hearings in other committees as well. Senate Democratic Leadership [instructed](#) committees to “start drafting a legislative package to outcompete China and create new American jobs.” The main part of the bill would be the [Endless Frontiers Act](#), which Majority Leader Schumer (D-NY) introduced last year with Sen. Young (R-IN), and Representatives Khanna (D-CA), and Gallagher (R-WI) in the House. The Democratic then-Ranking members of many Senate Committees (now the Chairs) introduced a series of bills (known as the [America LEADS Act](#)) in the fall of 2020 on various aspects of these issues, and these hearings appear to be part of creating the legislative record to move forward on these policies.

Upcoming Hearings and Meetings

March 18

10:00 am - Forced Labor and Customs Enforcement: The Senate Finance Committee will hold a hearing on “[Fighting Forced Labor: Closing Loopholes and Improving Customs Enforcement to Mandate Clean Supply Chains and Protect Worker\[s\]](#).” The Committee will hear testimony from Joseph Wrona, of the United Steelworkers; Martina E. Vandenberg, President of the Human Trafficking Law Center; Julia K. Hughes, President of the U.S. Fashion Industry Association; and Leonardo Bonanni, CEO of Sourcemap. 10:00 am, by webcast.

For more information about trade issues you may [email](#) or call Christopher Hatcher at 202-659-8201. Ryan Sigmon contributed to this section.