

March 26, 2021

Washington Update

This Week In Congress

Senate – The Senate confirmed the nominations of Marty Walsh to be Secretary of Labor, Shalanda Young to be Deputy Director of the Office of Management and Budget, Adewale Adeyemo to be Deputy Secretary of the Treasury, David Turk to be Deputy Secretary of Energy, Vivek Murthy to be Surgeon General, and Rachel Levine to be Deputy Secretary of Health and Human Services. The Senate also passed the Paycheck Protection Program (PPP) Extension Act ([H.R. 1799](#)), an amended version of the COVID-19 Bankruptcy Relief Extension Act ([H.R. 1651](#)), and amended legislation to extend the temporary suspension of Medicare sequestration ([H.R. 1868](#)).

House – The House held a committee work week and met in pro forma session.

Next Week In Congress

Senate – The Senate will be in recess and will meet in pro forma session. The Senate is scheduled to reconvene on April 12. Upon reconvening, the Senate is expected to continue its consideration of pending nominations, including Polly Trottenberg to be Deputy Secretary of Transportation, Gary Gensler to Chairman of the Securities and Exchange Commission, Wendy Sherman to be Deputy Secretary of State, and Brenda Mallory to be Chair of the Council on Environmental Quality.

House – The House will be in recess and will meet in pro forma session. The House is scheduled to reconvene on April 13.

TAX

Senate Finance Committee Holds Hearing on International Tax Reform

Key Point:

- *Earlier this week the Senate Finance Committee held a hearing to examine future changes to international tax provisions, and how a change in the corporate tax rate would affect American corporations.*

On Thursday the Senate Finance Committee held a [hearing](#) entitled “How U.S. International Tax Policy Impacts American Workers, Jobs, and Investment.” The witnesses that testified included; (1) Kimberly Clausing ([Testimony](#)), Deputy Assistant Secretary (Tax Analysis) at Treasury; (2) Pam Olson ([Testimony](#)), Former Assistant Secretary for Tax Policy at Treasury; (3) Chye-Ching Huang ([Testimony](#)), Executive Director, The Tax Law Center, NYU School of Law, and (4) James R. Hines Jr., Ph.D. ([Testimony](#)), Professor of Economics and Law, University of Michigan.

Chairman Wyden (D-OR), Committee Democrats, and the two majority witnesses (Clausing and Huang), advocated for reforming and tightening the international tax system by increasing GILTI rates and tightening provisions. They also discussed a variety of other subjects, including raising corporate tax rates to provide revenue for other policy priorities such as an upcoming infrastructure package. The Committee Republicans, Ranking Member Crapo (R-ID) and the two minority witnesses (Olson and Hines) made the case that the Tax Cuts and Jobs Act (TCJA) created a more competitive U.S. tax system relative to other OECD countries, eliminated many previous tax issues like inversions of corporate headquarters, and increased investment in the U.S., all benefiting American workers. The hearing was anticipated as a step to provide the legislative record for possible international tax changes in the coming months (see story below).

Biden Administration Considering Tax Increases to Finance a Future Infrastructure Package, Speech Next Week

Key Point:

- *Key Biden Administration officials have highlighted the Administration's intentions to raise taxes, including the corporate tax rate, to offset future infrastructure spending.*
- *President Biden is expected to announce his infrastructure effort next Wednesday in a Pittsburgh, PA speech.*

Earlier this week, President Biden was presented with an infrastructure package including climate change proposals, and a “highway bill.” Reports suggest that the highway bill would be paid for by a gas tax increase, however a majority of the other infrastructure proposals in the package will require commensurate tax increases to pay for the proposals or a portion of the proposals. The two obvious candidates based on statements by the Administration and the President are corporations/businesses, specifically international taxes, and the “wealthy,” or those households earning more than \$400,000 based on campaign promises. Additionally, on Wednesday, Treasury Secretary Yellen testified before the Senate Banking Housing and Urban Affairs Committee, where she agreed that the country may require tax increases to pay for a future infrastructure package.

The Biden Administration has previously taken the position that they would propose raising the corporate tax rate from 21% to 28% coupled with a reform to GILTI to target “offshoring” of revenues by U.S. corporations. Any tax package is expected to be considered in budget reconciliation, again, and as such would need the support of all Democrats, including Senator Manchin (D-WV). Senator Manchin has previously supported raising the corporate tax rate to at least 25%. During an interview this week, Senator Manchin stated “I think the corporate tax should never have gone below 25 percent. That’s one, that’s \$400 billion right there. I’m not afraid to look at other things.” Additionally, during a Senate Finance Committee hearing on Thursday, Deputy Assistant Secretary for Tax Analysis Clausing advocated for increasing the corporate tax rate to 28%, along with future GILTI reform.

Next week, President Biden is scheduled to make a speech in Pittsburgh, PA, where he is expected to announce his plans on BuildBackBetter and an infrastructure investment of about \$2 trillion, plus another \$1 trillion investment in human capital, such as education, child care and related spending.

House Ways and Means Committee Holds Members Day Hearing

Key Point:

- *House Ways and Means Committee held a member's day hearing earlier this week.*
- *Ways and Means Republicans refuse to participate as protest of process.*

On Tuesday, March 23 the House Ways and Means Committee, led by Chairman Neal (D-MA), held a Members' Day hearing. A number of topics were discussed in the hearing including; (1) taxes; (2) Social Security; (3) retirement security; (4) trade issues; (5) health care, and (6) social services. Members' Day hearings allow Committee members the unique opportunity to highlight their own legislative priorities or any legislation they have taken particular interest in. Committee Republicans boycotted the Committee hearing, led by Ranking Member Brady (R-TX). Ranking Member Brady released a [statement](#) on the boycott which noted: "Committee Republicans welcome a fair and deep discussion on infrastructure and economic growth. We urge you to proceed under regular order and hold a real hearing on infrastructure financing before moving any infrastructure-related legislation to the floor. Republicans therefore will not participate in today's event. We believe this topic deserves discussion up here on the dais between both parties, rather than a long line of testimonies from our colleagues, who we respect...Therefore, I look forward to the opportunity to work with you directly, Mr. Chairman, in a hearing format, where collaboration will once again yield a meaningful benefit to all Americans. This hearing is not it, and Ways and Means Republicans will not be party to it today."

If there were any hopes that the infrastructure package discussion would be bipartisan in the House, that hearing suggests the discussion in the House will be a more one-sided effort.

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

Secretary Yellen and Chairman Powell Testify Before Congress

Key Points:

- *Republicans raised concerns that the American Rescue Plan Act and other Democratic spending proposals will lead to an increase in inflation.*
- *Topics discussed at the hearings included state and local government aid, beneficial ownership, oversight of asset managers, LIBOR, bank regulation, and climate change.*

This week, Treasury Secretary Janet Yellen and Federal Reserve Chairman Jerome Powell testified before the House Financial Services Committee and the Senate Banking Committee.

At both hearings, Democrats highlighted the economic benefits of the American Rescue Plan Act (ARP), including the direct payments, extension of enhanced unemployment benefits, the enhanced child tax credit, and \$350 billion in aid to state and local governments.

Republicans, led by Senate Banking Committee Ranking Member Pat Toomey (R-PA) and House Financial Services Committee Ranking Member Patrick McHenry (R-NC), raised concerns that the \$1.9

trillion bill will result in higher prices and inflation. Toomey said the ARP had little to do with the pandemic, suggesting that it was an attempt by Democrats to claim credit for the economic recovery already underway. Chairman Powell stated that the Federal Reserve has tools to combat inflation, including through interest rates and asset purchases, but that they do not project a precipitous increase in inflation. He stated that in the near-term they predict some upward pressure on prices, but they do not expect it to produce substantially higher prices or that the increases will be persistent.

Senators Mike Crapo (R-ID) and Steve Daines (R-MT) raised concerns with a provision of the ARP which prevents states from using funds in the bill to lower taxes. They argued that this provision represents an inappropriate federal restriction on state governments. Daines stated that he was pleased with Yellen's letter to state attorneys general confirming that states can still cut their taxes. He noted that the letter says that the provision only prevents funding from the ARP from being used to offset a reduction in net tax revenue from changes in state tax law.

Representative Carolyn Maloney (D-NY) and Senator Mike Rounds (R-SD) urged the Treasury Department to prioritize implementation of provisions included in the National Defense Authorization Act (NDAA) aimed at cracking down on anonymous shell companies. Secretary Yellen emphasized that implementation of this legislation is a top priority for the Treasury Department.

Senator Elizabeth Warren (D-MA) argued that the Financial Stability Oversight Council (FSOC) should designate large asset managers, specifically BlackRock, as systemically important financial institutions (SIFIs). She stressed the need to subject these companies to enhanced supervisions, suggesting that the failure of a large asset manager could have a systemic impact on the economy. Yellen said for asset management the focus should be on these activities and potential restrictions, rather than on designation of individual firms. She stated that "it's not obvious to me" that designation is the "correct tool" for asset managers. Warren asked if the failure of a \$9 trillion asset manager poses a risk to the economy. Yellen said it is important to assess what the risk is, asserting that an asset management company is very different from a bank.

Representative Brad Sherman (D-CA) noted that Chairman Powell previously testified on the need for federal legislation to address legacy LIBOR contracts, so they can continue to function after the LIBOR index is no longer published. He asked if Yellen agrees there is a need for federal legislation. Yellen responded that she does. She said the transition could be difficult for certain legacy contracts without additional legislation. She said these contracts do not provide for a workable fallback rate, suggesting that Congress should provide federal legislation.

Senators John Kennedy (R-LA) and Kevin Cramer (R-ND), along with Representatives Frank Lucas (R-OK), Bill Huizenga (R-MI) and Andy Barr (R-KY) raised concerns with financial regulators' actions in regards to climate change. Lucas and Cramer suggested that financial regulators are discouraging banks from doing business with certain legally operating businesses, such as oil and gas companies. Yellen asserted that there are no regulatory requirements forcing anyone to lend or not lend to any particular project. Cramer responded that there are strong suggestions bordering on pressure, which big banks are responding to.

SEC Issues Interim Final Rule on Foreign Company Disclosure Requirements

Key Points:

- The SEC issued an interim final rule requiring foreign registrants to submit documentation showing that they are not owned or controlled by a governmental entity.
- The SEC is still developing regulations to implement the provisions of the Holding Foreign Companies Accountable Act requiring the delisting of companies which do not comply with PCAOB audit requirements.

On March 24, the Securities and Exchange Commission (SEC) announced it had adopted an [interim final rule](#) to implement the disclosure and submission requirements of the Holding Foreign Companies Accountable Act (HFCA Act). The rule applies to registrants which submit filings with an audit report issued by a registered public accounting firm that is located in a foreign jurisdiction and that the Public Company Accounting Oversight Board (PCAOB) has determined it is unable to inspect or investigate completely because of a position taken by an authority in that jurisdiction. The Commission will develop a process for identifying such registrants.

An SEC [press release](#) explained:

Consistent with the HFCA Act, the amendments will require any such identified registrant to submit documentation to the Commission establishing that the registrant is not owned or controlled by a governmental entity in that foreign jurisdiction, and will also require disclosure in a foreign issuer's annual report regarding the audit arrangements of, and governmental influence on, such a registrant.

The press release noted that the SEC is still working on regulations to implement other provisions of the HFCA Act, including trading prohibition requirements. The bill prohibits securities of a company from being listed on any of the U.S. securities exchanges if the company has failed to comply with PCAOB audit requirements for three consecutive years.

The interim final rule will go into effect 30 days after its publication in the *Federal Register*. The rule will be subject to a 30-day comment period.

Upcoming Hearings and Meetings

March 31

Financial Stability Oversight Council: The Financial Stability Oversight Council (FSOC) will hold open and closed sessions. The preliminary agenda for the open session includes climate change and its potential impacts on financial stability. The preliminary agenda for the executive session includes hedge fund activity and open-end mutual fund performance during the COVID-19 crisis.

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

ENERGY & ENVIRONMENT**Upcoming Hearings and Events****March 30-31**

Great Lakes: The Environmental Protection Agency (EPA) will hold a [public meeting](#) of the Great Lakes Advisory Board.

April 13

Advanced Nuclear Reactors: The Nuclear Regulatory Commission (NRC) will hold a [briefing](#) on “Advanced Reactor Preparedness Through Regulatory Engagement and Research Cooperation”.

April 15

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

April 16

FERC Office of Public Participation: The Federal Energy Regulatory Commission (FERC) will hold a [workshop](#) “to provide interested parties with the opportunity to provide input...on the creation of the Office of Public Participation.” Congress required FERC to report by June 25, 2021 “on the Commission’s progress towards establishing the Office of Public Participation, including an organizational structure and budget for the office, beginning in fiscal year 2022.” FERC is seeking input on issues related to establishing the office, including: (1) “the office’s function and scope as authorized by section 319 of the [Federal Power Act];” (2) “the office’s organizational structure and approach, including the use of equity assessment tools;” (3) “participation by tribes, environmental justice communities, and other affected individuals and communities, including those who have not historically participated before the Commission; and” (4) “intervenor compensation.”

April 29

“Electrification and the Grid of the Future”: The Federal Energy Regulatory Commission (FERC) will hold a [technical conference](#) on “Electrification and the Grid of the Future”. The conference will “discuss electrification—the shift from non-electric to electric sources of energy at the point of final consumption (e.g., to fuel vehicles, heat and cool homes and businesses, and provide process heat at industrial facilities).”

May 6

Environmental Justice: The Environmental Protection Agency’s (EPA) National Environmental Justice Advisory Council (NEJAC) will hold a [virtual public meeting](#). The meeting “will focus on several topics including, but not limited to, EPA administration transitions priorities, and discussions and deliberations of a charge related to the reuse and revitalization of Superfund and other contaminated sites.”

June 17

Environmental Justice: The Environmental Protection Agency’s (EPA) National Environmental Justice Advisory Council (NEJAC) will hold a [virtual public meeting](#). The meeting “will focus on several

topics including, but not limited to, EPA administration transitions priorities, and discussions and deliberations of a charge related to the reuse and revitalization of Superfund and other contaminated sites.”

June 22-24

Market and Planning Efficiency Through Improved Software: The Federal Energy Regulatory Commission (FERC) will hold a [technical conference](#) “to discuss opportunities for increasing real-time and day-ahead market efficiency of the bulk power system through improved software.” FERC will issue a detailed agenda for the technical conference after May 28, 2021.

For more information about energy and environment issues you may [email](#) or call Frank Vlossak at 202-659-8201. Jackson Notes and Thomas Benson contributed to this report. Updates on energy and environment issues are also available on [twitter](#).

HEALTH

Energy & Commerce Marks the 11th Anniversary of the ACA

Key Points:

- *The House Energy and Commerce Committee held a hearing this week to commemorate the 11th anniversary of the passage of the Affordable Care Act and discuss potential legislative steps to strengthen the law.*
- *The Committee discussed 18 bills ranging from increasing individual subsidies to permanent funding for the Children’s Health Insurance Program (CHIP).*

On March 23, the House Energy & Commerce Committee’s Subcommittee on Health held a [hearing](#) entitled “Building on the ACA: Legislation to Expand Health Coverage and Lower Costs.” Topics discussed in the hearing included: (1) Outreach; (2) Short Term Plans; (3) Cost of Healthcare; (4) Express Lane Eligibility; (5) Transparency; (6) Medicaid Expansion; (7) Network Adequacy; (8) Rate Review; (9) Medicare for All; (10) Equity; (11) Enrollment; (12) Navigators and Brokers; (13) Reinsurance; (14) Health Savings Accounts; (15) Indian Organizations; (16) Group Health Plans; (17) Pandemic Effects; (18) Premiums; (19) Section 1332 Waivers; (20) Money Follows the Person; (21) Direct Primary Care; (22) Maternal Care; (23) CHIP; (24) Access to Care; (25) Substance Use Disorder; and (26) Premium Tax Credit.

Chairwoman Anna Eshoo (D-CA) highlighted the expanded subsidies and lowered premiums provided in the American Rescue Plan. She expressed concern 14 states have still not expanded Medicaid leaving many low-income Americans without coverage. Ranking Member Brett Guthrie (R-KY) contended there are more pressing issues for the Committee to consider than the Affordable Care Act. He expressed concern about proposals to ban short-term, limited duration health plans which would result in hundreds of thousands of Americans losing coverage. Full Committee Chairman Frank Pallone (D-NJ) asserted these “junk plans” mislead people into thinking they have coverage when they really do not. Full Committee Ranking Member Cathy McMorris Rodgers (R-WA) contended the proposed bills take the U.S. down the road of socialized health care.

The Committee considered the following bills:

- [H.R. 1790](#), the "Fair Indexing for Health Care Affordability Act"
- [H.R. 1796](#), the "Health Care Enrollment Innovation Act"
- [H.R. 1872](#), the "Marketing and Outreach Restoration to Empower Health Education Act of 2021" or the "MORE Health Education Act"
- [H.R. 1874](#), the "Expand Navigators' Resources for Outreach, Learning, and Longevity Act of 2021" or the "ENROLL Act of 2021"
- [H.R. 1875](#), a bill to amend title XXVII of the Public Health Service Act to eliminate the short-term limited duration insurance exemption with respect to individual health insurance coverage
- [H.R. 1878](#), the "State Health Care Premium Reduction Act of 2021"
- [H.R. 1890](#), the "Health Care Consumer Protection Act"
- [H.R. 1896](#), the "State Allowance for Variety of Exchanges Act of 2021" or the "SAVE Act of 2021"
- [H.R. 340](#), the "Incentivizing Medicaid Expansion Act of 2021"
- [H.R. 1738](#), the "Stabilize Medicaid and CHIP Coverage Act"
- [H.R. 1784](#), the "Medicaid Report on Expansion of Access to Coverage for Health Care Act" or the "Medicaid REACH Act"
- [H.R. 1025](#), the "Kids' Access to Primary Care Act of 2021"
- [H.R. 66](#), the "Comprehensive Access to Robust Insurance Now Guaranteed for Kids Act" or the "CARING for Kids Act"
- [H.R. 1791](#), the "Children's Health Insurance Program Permanency Act" or the "CHIPP Act"
- [H.R. 1888](#), the "Improving Access to Indian Health Services Act"
- [H.R. 1717](#), a bill to amend title XIX of the Social Security Act to make permanent the protections under Medicaid for recipients of home and community-based services against spousal impoverishment
- [H.R. 1880](#), a bill to amend the Deficit Reduction Act of 2005 to make permanent the Money Follows the Person Rebalancing Demonstration
- [H.R. 1390](#), the "Children's Health Insurance Program Pandemic Enhancement and Relief Act" or the "CHIPPER Act"

Upcoming Hearings and Meetings

April 1-2

Medicare: The Medicare Payment Advisory Commission will hold a public meeting.

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

TRADE

EU to Move Forward with Digital Tax

Executive Vice President of the European Commission for A Europe Fit for the Digital Age Margrethe Vestager said that the European Union (EU) would push forward with its digital tax because

Organisation for Economic Co-operation and Development (OECD) discussions on the matter will take too long. She said that the EU intends “to table the proposal by June this year with an aim to make the levy operational as from 2023 onwards.”

At a Senate Finance hearing this week, former Treasury Assistant Secretary for Tax Policy, Pam Olson, suggested the Senate might need to consider a treaty in the future on digital taxes as a result of OECD efforts.

U.S. Holds Discussions with U.K., EU

Key Points:

- *U.S. Trade Representative Tai held separate virtual meetings with the European Union (EU) and United Kingdom (U.K.) on Monday to discuss the Boeing-Airbus dispute and the U.K. free trade agreement.*

On Monday, U.S. Trade Representative (USTR) Tai and European Commission Executive Vice President Valdis Dombrovskis held a virtual meeting and discussed their strong interest in resolving the Airbus-Boeing dispute, according to a European Union (EU) statement. These discussions come after the U.S. agreed separately with the European Union and United Kingdom (U.K.) to temporarily suspend tariffs related to the dispute.

In a separate meeting on Monday, USTR Tai and U.K. Trade Secretary Liz Truss discussed progress on a free trade agreement between the two nations, as well as issues related to China and climate change. The two sides said they would continue talks on the free trade agreement, but the timeline for these discussions remains unclear.

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

This Week in Congress was written by Alex Barcham.