

April 9, 2021

Washington Update

This Week In Congress

Senate – The Senate was in recess and met in pro forma session

House – The House was in recess and met in pro forma session.

Next Week In Congress

Senate – 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 is scheduled to reconvene on April 13. The House is expected to consider the Paycheck Fairness Act ([H.R. 7](#)) and the Workplace Violence Prevention for Health Care and Social Service Workers Act ([H.R. 1195](#)).

TAX

Treasury Releases Additional Details on the “Made in America Plan”

Key Point:

- *The Treasury Department has released further details surrounding their Made in America Tax Plan, which includes a number of key tax increases.*

The Biden Administration Treasury Department has released a more in-depth “Made in America Tax Plan” which builds upon the policies outlined in the Biden Infrastructure Plan. This also includes the proposed “pay fors” detailed by the Biden Administration, as to how they will pay for much of the infrastructure plan. According to the Treasury Department, the report “describes President Biden’s Made in America tax plan, part of the newly announced American Jobs Plan, the goal of which is to make American companies and workers more competitive by eliminating incentives to offshore investment, substantially reducing profit shifting, countering tax competition on corporate rates, and providing tax preferences for clean energy production.” The report, which can be found [here](#), outlines a number of main policy proposals included in the broader plan, including:

- Raising the corporate tax rate to 28%.
- Strengthening the global minimum tax regime for U.S. based multinational corporations.

- Encouraging global adoption of the global minimum tax in order to target low corporate tax rate countries.
- Enacting a 15% minimum tax on book income.
- Replacing fossil fuel incentives with clean energy production incentives.
- Ramping up enforcement efforts to address tax avoidance.
- Eliminating the BEAT and replace it with the “SHIELD” (Stopping Harmful Inversions and Ending Low-tax Developments), which the plan indicates “denies multinational corporations U.S. tax deductions by reference to payments made to related parties that are subject to a low effective rate of tax.”

There has also been additional discussion in the Biden Administration around raising the GILTI rate to 21%. Treasury Secretary Janet Yellen has written an Op-Ed on the issue and potential reforms which can be found [here](#).

Senate Finance Committee Chairman Wyden (D-OR), and Senators Brown (D-OH), and Warner (D-VA) Release a Plan to Overhaul the U.S. International Tax Framework

Key Point:

- *Key Senate Finance Committee Democrats have released a white paper detailing a plan to overhaul U.S. international tax provisions.*

Earlier this week, Senate Finance Committee Chairman Wyden (D-OR), along with Senators Brown (D-OH) and Warner (D-VA), released a [plan](#) to overhaul the U.S. international tax framework. This framework offers additional options for changes to GILTI, FDII and BEAT, and may fill in some of the substance as to the possible methods behind changes implicated in the Biden plan or that Congress may undertake with respect to infrastructure offsets. Major provisions of not in the plan include:

- Repealing the 10% return on assets exemption from GILTI for “qualified business asset investment” (QBAI).
- Increase GILTI rate to some higher rate, suggested potentially between 60% - 100% of the corporate rate.
- Apply GILTI on a country-by-country basis.
- Eliminate penalties under GILTI (allocating certain domestic expenses to foreign income, reducing foreign tax credits) for research and management that occur in the US.
- Repeal QBAI in the context of FDII.
- Equalize tax rates on GILTI and FDII at whatever rates are set for both, if FDII is maintained.
- Allow full value for domestic business tax credits under BEAT.
- Apply a higher BEAT tax rate targeted at base erosion payments, above the current 10% rate for regular taxable income.

While it is important to note a number of these provisions align with proposals from the Biden Administration Treasury Department, a number of provisions provide greater detail on specific taxes and may provide a roadmap for future Congressional action on the issue. There are differences as well, such as different approaches on a BEAT repeal or replacement. This release is open to public comment

until April 23 and all public comments must be submitted to the Senate Finance Committee at InternationalTax@finance.senate.gov by that date.

Upcoming Hearings and Events

April 13

IRS Filing Season: The Senate Committee on Finance will hold a virtual hearing on April 13, at 10:00am EST, entitled “The 2021 Filing Season and 21st Century IRS.” The panel will feature the Honorable Charles Rettig, Commissioner of the Internal Revenue Service.

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

Vice Chairman Quarles Discusses FSB Agenda

Key Points:

- *Vice Chairman Quarles announced that the FSB will be releasing a report in July laying out proposals to enhance money market fund resilience.*
- *Quarles also discussed the FSB’s work to enhance CCP resilience and resolvability.*

On March 30, Federal Reserve Vice Chairman for Supervision and Financial Stability Board (FSB) Chairman Randal Quarles gave a [speech](#) entitled “The FSB in 2021: Addressing Financial Stability Challenges in an Age of Interconnectedness, Innovation, and Change.” The speech focused on the FSB’s work on two issues: non-bank financial intermediation (NBFI) and cross-border payments.

Quarles noted that an FSB working group released a [report](#) on the March 2020 stress in the financial sector entitled “Holistic Review of the March Market Turmoil.” He said the Holistic Review highlighted vulnerabilities in the financial system, in particular “the dependence of the system on readily available liquidity, and vulnerabilities if liquidity strains emerge—in money market mutual funds (MMFs) and open-end funds, through margin calls and in core bond markets.” He noted that the FSB will release a report for consultation in July laying out policy proposals for improving MMF resilience. He added:

As a first step, the focus will be on enhancing our understanding of vulnerabilities that could emanate from these sectors, including risk transmission channels. Addressing systemic risk in a dynamic sector that continues to evolve is no small feat. I expect policy-related discussions and recommendations to follow the analytical work, though that will likely extend past this year.

Quarles added that FSB will also be focused on measures to enhance central counterparty (CCP) resilience and resolvability. He stated:

I am coordinating with the Chairs of the Committee on Payments and Market Infrastructures (CPMI), International Organization of Securities Commissions, and the FSB Resolution Steering Group on shaping these details. We expect to launch a workstream this year aimed at further strengthening the

resilience and resolvability of CCPs in default and non-default loss scenarios, including assessing whether any new types of resources would be necessary to enhance CCP resolvability.

Upcoming Hearings and Meetings

April 13

Housing Discrimination: The Senate Banking Committee will hold a hearing entitled “Separate and Unequal: The Legacy of Racial Discrimination in Housing.”

Student Debt: The Senate Banking Committee’s Subcommittee on Economic Policy will hold a hearing on “The Student Debt Burden and Its Impact on Racial Justice, Borrowers, & the Economy.”

April 14

Infrastructure: The House Financial Services Committee will hold a hearing entitled “Building Back Better: Examining the Need for Investments in America’s Housing and Financial Infrastructure.”

April 15

Banking Innovation: The House Financial Services Committee’s Subcommittee on Consumer Protection and Financial Institutions will hold a hearing entitled, “Banking Innovation or Regulatory Evasion? Exploring Trends in Financial Institution Charters.”

LIBOR: The House Financial Services Committee’s Subcommittee on Investor Protection, Entrepreneurship and Capital Markets will hold a hearing entitled, “The End of LIBOR: Transitioning to an Alternative Interest Rate Calculation for Mortgages, Student Loans, Business Borrowing, and Other Financial Products.”

Public Transportation: The Senate Banking Committee will hold a hearing entitled “21st Century Communities: Public Transportation Infrastructure Investment and FAST Act Reauthorization.”

April 20

Markup: The House Financial Services Committee will hold a markup of pending legislation.

April 22

Clean Energy: The Senate Banking Committee will hold a hearing entitled “21st Century Communities: Capitalizing on Opportunities in the Clean Energy Economy.”

April 27

Member Day: The House Financial Services Committee will hold a Member Day hearing.

April 28

Municipal Bonds: The House Financial Services Committee’s Subcommittee on Oversight and Investigations will hold a hearing entitled, “Examining the Role of Municipal Bond Markets in Advancing – and Undermining – Economic, Racial and Social Justice.”

April 29

Wealth Gap: The House Financial Services Committee’s Subcommittee on Diversity and Inclusion will convene for a virtual hearing entitled, “Closing the Racial and Gender Wealth Gap Through Compensation Equity.”

Labor: The Senate Banking Committee will hold a hearing entitled “Dignity of Work.”

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

ENERGY & ENVIRONMENT**Upcoming Hearings and Events****April 13**

Keystone XL Pipeline: The House Energy and Commerce Committee Republicans will hold a [forum](#) titled “President Biden’s Cancellation of the Keystone XL Pipeline and American Jobs”.

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](#). The [agenda](#) includes: “Electric Transmission Incentives Policy Under Section 219 of the Federal Power Act”; “Carbon Pricing in Organized Wholesale Electricity Markets”; and “Five-Year Review of the Oil Pipeline Index”.

Environmental Justice Legislation: The House Energy and Commerce Committee’s Environment and Climate Change Subcommittee will hold a [hearing](#) titled “The CLEAN Future Act and Environmental Justice: Protecting Frontline Communities”. The hearing will cover the following legislation: the “Climate Leadership and Environmental Action for Our Nation’s (CLEAN) Future Act” ([H.R. 1512](#)); the “Climate Smart Ports Act” ([H.R. 501](#)); the “Environmental Justice Mapping and Data Collection Act of 2021” ([H.R. 516](#)); the “Alerting Localities of Environmental Risks and Threats Act of 2021” ([H.R. 861](#)); the “Climate Action Planning for Ports Act of 2021” ([H.R. 862](#)); the “Environmental Justice for All Act” ([H.R. 2021](#)); the “Climate Justice for All Act of 2021” ([H.R. _____](#)); the “Ensuring Safe Disposal of Coal Ash Act” ([H.R. _____](#)); the “Voices for Environmental Justice Act” ([H.R. _____](#)); the “Environmental Justice Act of 2021” ([H.R. _____](#)); and the “Protection from Cumulative Emissions and Underenforcement of Environmental Law Act of 2021” ([H.R. _____](#)).

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.” The [agenda](#) includes panels focusing on “Affected Communities”; “The Office of Public Participation’s Structure and Functions”; “Energy and Environmental Justice”; “Coordinating Public Assistance”; and “Intervenor Funding”.

April 22

FERC Technical Workshop on MBR Database: The Federal Energy Regulatory Commission (FERC) will hold a [technical workshop](#) to “discuss the timelines, functionalities, and features of the relational database through which the Commission will begin collecting certain market-based rate (MBR) information in accordance with Order No. 860 (MBR Database).”

April 23

Energy Efficiency: The Department of Energy will hold a webinar on the [Notice of Proposed Rulemaking \(NPRM\)](#) titled “Energy Conservation Program for Appliance Standards: Procedures, Interpretations, and Policies for Consideration in New or Revised Energy Conservation Standards and Test Procedures for Consumer Products and Commercial/Industrial Equipment”.

April 27

Coal Council Open Meeting: The Department of Energy’s National Coal Council (NCC) will hold an [open meeting](#). The agenda includes: (1) “Keynote remarks by Dr. Jennifer Wilcox, Principal Deputy Assistant Secretary (Acting Assistant Secretary) for Fossil Energy...”; (2) “Keynote remarks by Mike Nasi, Equity Partner, Jackson Walker LLP on the Texas polar vortex”; (3) “Presentation by William Easter, CEO, Semplastics EHC LLC on using coal for value-added roofing tiles, batteries and construction materials”; (4) “Presentation by David Greeson, Lead Project Developer-Project Tundra, Minnkota Power Cooperative, an update on Project Tundra—the world’s largest carbon capture facility”

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

CMS Rescinds Medicaid Work Requirements

Key Points:

- *The Centers for Medicare and Medicaid Services (CMS) sent letters to Michigan and Wisconsin rescinding approval of Section 1115 waivers to permit work requirements in Medicaid.*
- *CMS had already rescinded similar authority for Arkansas and New Hampshire. Seven other states are still awaiting a decision.*

On April 6, the Centers for Medicare and Medicaid Services (CMS) sent letters to Medicaid directors in [Michigan](#) and [Wisconsin](#) to rescind approval for Section 1115 demonstrations imposing work requirements on Medicaid beneficiaries. CMS had already rescinded approval for similar programs in Arkansas and New Hampshire.

The use of Medicaid work requirements was strongly supported by the Trump Administration which granted permission to 12 states to enact demonstration programs. Former CMS Administrator Seema Verma contended “it is not compassionate to trap people in government programs or create greater dependency on public assistance...”

In its letters, CMS said the work requirements were not consistent with the purpose of the Medicaid program and emphasized most Medicaid beneficiaries already work. In the letter to Michigan, for example, CMS noted in the state’s study, most beneficiaries who were targeted with the community engagement requirement already met the requirement or were exempt due to disability or illness. Therefore, the program did not really increase community engagement.

Upcoming Hearings and Meetings

April 14

COVID-19: The Senate Homeland Security and Governmental Affairs Committee will hold a hearing on “Preparedness for COVID-19: The Initial Pandemic Response and Lessons Learned.”

Substance Use: The House Energy and Commerce Committee will hold a hearing on “An Epidemic within a Pandemic: Understanding Substance Use and Misuse in America.”

April 15

Nominations: The Senate Finance Committee will hold a hearing to consider the nominations of Andrea Joan Palm to be Deputy Secretary of Health and Human Services and Chiquita Brooks-LaSure to be Administrator of the Centers for Medicare and Medicaid Services.

HHS Budget: The House Appropriations Committee will hold a hearing on “FY 2022 Budget Request for the Department of Health and Human Services.”

Mental Health: The House Education and Labor Committee will hold a hearing on “Meeting the Moment: Improving Access to Behavioral and Mental Health Care.”

COVID-19: The House Select Subcommittee on the Coronavirus will hold a hearing on “Reaching the Light at the End of the Tunnel: A Science-Driven Approach to Swiftly and Safely Ending the Pandemic.”

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

TRADE

Biden Administration Sends out Proposal for Reforming the Global Tax System on “Digital Taxes”

Key Points:

- *The Biden Administration sent a proposal to countries involved in ongoing digital tax discussions at the Organization for Economic Cooperation and Development (OECD), which would subject all international companies with annual global revenues of around \$20 billion to a corporate tax.*
- *The Biden Administration, as well as the Trump Administration, considered imposing Section 301 duties to retaliate against discriminatory digital taxes by other countries or trading blocks (EU).*

The Biden Administration sent a proposal to countries involved in ongoing digital tax discussions at the Organization for Economic Cooperation and Development (OECD) that would subject all international companies with annual global revenues of around \$20 billion to a corporate tax wherever they sell their goods or services. The proposal would target companies’ global profits and divide the taxes between countries depending on where the companies sell their goods. This proposal would limit the tax to nearly 100 of the largest companies in the world and would eliminate the distinction between automated digital

services and consumer-facing businesses. This new approach would replace the existing global regime of taxing companies only in the countries where they book their profits.

U.S., U.K. Continue to Hold Negotiations on Airbus-Boeing Dispute

Key Point:

- *Negotiations between the U.S. and United Kingdom (U.K.) related to the Airbus-Boeing dispute continue, with the U.K. hoping that a resolution will lead to a larger free trade agreement.*

The U.S. and United Kingdom (U.K.) continue to hold virtual negotiations regarding the Airbus-Boeing dispute. The U.K. had asked the European Union (EU) if they wanted to participate in trilateral discussions, but the EU refused, declaring that the dispute is a bilateral issue with the U.S. U.K. officials hope that resolving the dispute will help lead the way to a larger free trade agreement with the U.S. Despite these hopes, the 90-day deadline for Congress to fast track a bilateral trade agreement using Trade Promotion Authority (TPA) was April 1, suggesting any trade deal with the U.K. will be on a slow approach.

President Biden Orders Cabinet to Review Buy America Policies

Key Point:

- *President Biden has requested that his Cabinet secretaries review their departments' Buy America policies, indicating that the Biden Administration will keep Buy America policy issues at the forefront.*

Last week, President Biden directed his Cabinet secretaries to review their departments' Buy America policies to ensure they are in line with his executive order to expand domestic government procurement. The January executive order states that the government “should, whenever possible, procure goods, products, materials, and services from sources that will help American businesses compete in strategic industries and help America’s workers thrive.” President Biden requested that his Cabinet secretaries report back to him at the next cabinet meeting. The action suggests that the Biden Administration will keep the Buy America policy issues at the forefront, and that the executive order in January was not just posturing.

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.