

June 18, 2021

Washington Update

This Week In Congress

Senate – The Senate confirmed the nominations of Lina Khan to be a member of the Federal Trade Commission, Ketanji Brown Jackson to be a U.S. Circuit Court Judge, Michal Freedhoff and Radhika Fox to be Assistant Administrators of the Environmental Protection Agency, Tommy Beaudreau to be Deputy Secretary of the Interior, Tanya Marie Trujillo to be Assistant Secretary of the Interior, Matthew Quinn to be Under Secretary of Veterans Affairs, Richard Spinrad to be Under Secretary of Commerce, Chris Inglis to be National Cyber Director, Pamela Melroy to be Deputy Administrator of NASA, and John Tien to be Deputy Secretary of Homeland Security. The Senate passed legislation to designate Juneteenth National Independence Day as a federal holiday ([S. 475](#)), which subsequently passed in the House and was signed into law.

House – The House passed the Corporate Governance Improvement and Investor Protection Act ([H.R. 1187](#)), a package of financial services bills focused on enhancing disclosure around climate risk, sustainable finance, political activity, executive compensation, and international taxation. The House also passed legislation to repeal the Authorization for Use of Military Force Against Iraq Resolution of 2002 ([H.R. 256](#)).

Next Week In Congress

Senate – The Senate is expected to consider the For the People Act ([S. 1](#)), a package of election reform measures. The Senate will also continue its consideration of pending nominations, including of Christopher Fonzone to be General Counsel of the Office of the Director of National Intelligence.

House – The House is expected to vote on the Protecting Older Workers Against Discrimination Act ([H.R. 2062](#)), the Equal Access to Contraception for Veterans Act ([H.R. 239](#)), and the LGBTQ Business Equal Credit Enforcement and Investment Act ([H.R. 1443](#)). The House is also scheduled to vote on Congressional Review Act resolutions to overturn an Environmental Protection Agency regulation regarding methane emissions ([S.J.Res. 14](#)), an Equal Employment Opportunity Commission regulation regarding conciliation procedures ([S.J. Res 13](#)), and the Office of the Comptroller of the Currency’s “True Lender” rule ([S.J.Res 15](#)).

TAX**Bipartisan Infrastructure Discussions Continue as Key Democratic Lawmakers Draft Plan to Release Proposals in the Upcoming Weeks***Key Points:*

- *Bipartisan infrastructure talks remain ongoing as bipartisan group of Senators remain committed to the discussions.*
- *Senate Democrats have also reportedly begun drafting their own spending/infrastructure proposals which could be moved through the budget reconciliation process should bipartisan discussions fail.*

Bipartisan infrastructure talks remain ongoing as the bipartisan group of 20 senators made up of 10 Democrats and 10 Republicans released their \$579 billion plan to “rebuild America’s roads and bridges, improve public transit systems, invest in broadband infrastructure, and upgrade our airports.” The plan includes \$312.8 billion in transportation related spending and \$266.2 billion in other infrastructure proposals.

The proposal also includes a list of financing sources included:

- Infrastructure Financing Authority to leverage private investment
- Public private partnership’s, private activity bonds, and asset recycling
- Direct-pay municipal bonds for infrastructure investment
- Reduced IRS tax gap
- Redirect unused UI relief funds
- Re-purposed unused COVID-19 relief funds for infrastructure
- Expanded allowable uses of COVID-19 state/local funds
- Allow use of toll credit balances for infrastructure
- Annual surcharge on electric vehicles
- Indexed gas tax to inflation
- Adjusted customs user fees

The status of these negotiations continues to change as the situation evolves. Talks were ongoing through the week.

However, the *New York Times* reported on Thursday that Senate Democrats have begun to privately weigh an economic package which could cost upwards of \$6 trillion and includes \$3 trillion in “pay-fors.” The package includes broader spending measures proposed in President Biden’s FY2022 budget along with infrastructure proposals. More liberal Democrat Senators have urged their party’s leaders to halt discussions with Republicans and continue spending proposals through the process of budget reconciliation. However, moderate Democrats, including Senators’ Sinema (D-AZ), Manchin (D-WV)

and Tester (D-MT), remain committed to bipartisan infrastructure negotiations. It appears possible the bipartisan group of 20 senators may make a formal legislative proposal public in the coming weeks ahead, however nothing concrete other than a two-page summary has been released to this point.

Senators Sinema (D-AZ) and Manchin (D-WV) have joined the bipartisan group discussing infrastructure, so that effort may need to come to a conclusion before they are ready to move to a partisan reconciliation process. The White House reportedly suggested to House Democrats that in about a week the likely resolution on the bipartisan talks will be more clear.

Meanwhile, top congressional tax writers including Senate Finance Committee Chairman Wyden (D-OR) have said that they plan to be ready with legislative proposals to address Democratic caucus spending priorities sometime this summer. Chairman Wyden (D-OR) suggested a trio of items are nearly ready to be wrapped into a possible infrastructure bill should Democrats be able to craft one. These proposals would include a plan to overhaul the international tax regime, the Clean Energy for America Act framework, and a proposal to raise the capital gains tax on upper income Americans. The view is that these items are ready may not be shared by moderates or the House, and certainly not by Congressional Republicans, but Republicans would have no say in a Democratic-led reconciliation measure. That said, Chairman Wyden (D-OR) told reporters this proposal could be ready by the end of summer.

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

House Passes Package of Corporate Governance and Disclosure Bills

Key Point:

- *The legislation would require additional disclosures around climate risk, sustainable finance, political activity, executive compensation, and international taxation.*

This week, the House passed the Corporate Governance Improvement and Investor Protection Act ([H.R. 1187](#)), a package of bills focused on enhancing disclosure around climate risk, sustainable finance, political activity, executive compensation, and international taxation. The bill narrowly passed by a vote of 215-214.

The following bills were included in the package:

- The ESG Disclosure Simplification Act of 2021, introduced by Representative Juan Vargas (D-CA), which would require issuers to disclose certain environmental, social and governance (ESG) metrics to shareholders, the connection between those metrics and the issuer's long term business strategy, and the method by which the issuer determines how ESG metrics impact its

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long-term strategy. The bill would also require the Securities and Exchange Commission (SEC) to adopt rules requiring issuers to disclose ESG metrics in filings that require audited financial statements.

- The Shareholder Political Transparency Act ([H.R. 1087](#)), introduced by Representative Bill Foster (D-IL), which would require public companies to submit quarterly reports to both the SEC and investors detailing the amount, date, and nature of the company's expenditures for political activities.
- The Greater Accountability in Pay Act ([H.R. 1188](#)), introduced by Representative Nydia Velazquez (D-NY), which would require public companies, with the exception of emerging growth companies, to disclose certain employee pay raise information, including pay raises for executive employees and non-executive employees.
- The Climate Risk Disclosure Act ([H.R. 2570](#)), introduced by Representative Sean Casten (D-IL), which would require public companies to disclose in their annual reports information relating to the financial and business risks associated with climate change. The bill also requires the SEC to establish, in consultation with other relevant financial agencies, climate-related risk disclosure metrics and guidance, which will be industry-specific, and will require companies to make both quantitative and qualitative disclosures.
- The Disclosure of Tax Havens and Offshoring Act ([H.R. 3007](#)), introduced by Representative Cindy Axne (D-IA), which would require public companies to disclose their total pre-tax profits, and total amounts paid in State, Federal, and foreign taxes.

The Biden Administration issued a [Statement of Administration Policy](#) in support of the legislation.

House Financial Services Panel Holds Hearing on Central Bank Digital Currency

Key Points:

- *The hearing examined the potential risks and benefits of proposals for the Federal Reserve to create a central bank digital currency (CBDC).*
- *Republicans expressed opposition to proposals for the Federal Reserve to offer retail bank accounts.*
- *Chairwoman Waters announced the formation of a Digital Assets Working Group.*

On June 15, the House Financial Services Committee's Task Force on Financial Technology held a [hearing](#) entitled "Digitizing the Dollar: Investigating the Technological Infrastructure, Privacy, and Financial Inclusion Implications of Central Bank Digital Currencies."

Task Force Chairman Stephen Lynch (D-MA) said that Congress must consider CBDCs' effects on financial inclusion, consumer privacy, illicit finance, and business operations among other issues. He questioned if CBDCs will allow those outside of the traditional finance system to gain more access or if they will uphold existing prohibitive barriers. Ranking Member Warren Davidson (R-OH) asserted that the U.S. is still in the learning phase about CBDCs and emphasized the importance of continuing to gather information and communicating what is known. He acknowledged the potential of CBDCs to

enhance financial infrastructure but warned that the U.S. should pursue them for the right reasons and not to keep up with China. He highlighted the importance of privacy in protecting individual liberties and avoiding the system being used as a tool of control.

Full Committee Chairwoman Maxine Waters (D-CA) said the Federal Reserve is reviewing the possibility of a CBDC, suggesting that if designed properly CBDCs have the potential to harness the positive innovations arising from cryptocurrencies and digitizing the dollar. She announced that she has organized a Digital Assets Working Group of Democratic members to engage with regulators and experts to do a deep dive into the industry relating to cryptocurrencies. Waters later issued a [press release](#) announcing that the members of the Working Group will be Representatives Brad Sherman (D-CA), Al Green (D-TX), Jim Himes (D-CT), Bill Foster (D-IL), Josh Gottheimer (D-NJ), Michael San Nicolas (D-Guam), Sean Casten (D-IL), Ritchie Torres (D-NY), Stephen Lynch (D-MA), Jesus Garcia (D-IL), Sylvia Garcia (D-TX), and Nikema Williams (D-GA).

Full Committee Ranking Member Patrick McHenry (R-NC) highlighted the importance of U.S. lawmakers being informed about CBDCs. He said they have the advantages of being an efficient and effective payment system along with driving financial inclusion. He stated that the risks include limiting economic growth and destabilizing financial markets. He argued that it is more important to get CBDCs right than be the first country to implement them.

Representatives Blaine Luetkemeyer (R-MO), Tom Emmer (R-MN), and French Hill (R-AR) express opposition to proposals for the Federal Reserve to set up retail banking accounts which could be used to hold CBDCs. They expressed support for allowing the banking sector, digital wallets, and fintech companies to continue to lead on innovation. Emmer argued that a centralized database of consumer information at the Federal Reserve would be a target for hackers and could act as a single point of failure in the financial system.

Senate Banking Committee Holds Second Hearing on NFIP Reauthorization

Key Points:

- *Chairman Sherrod Brown (D-OH) stressed the need to pass a long-term reauthorization of the NFIP which supports access, affordability, mapping, and mitigation.*
- *Ranking Member Patrice (R-PA) emphasized the need to move the NFIP towards actuarially sound premiums, expressing support for their Risk Rating 2.0 initiative. Senator John Kennedy (R-LA) strongly criticized Risk Rating 2.0, arguing that it is opaque and will increase premiums for his constituents.*

On June 17, the Senate Banking Housing and Urban Affairs Committee held a [hearing](#) entitled “Reauthorization of the National Flood Insurance Program, Part II.” Chairman Sherrod Brown (D-OH), in a [statement](#), said the Committee is seeking to pass a long-term reauthorization of the National Flood Insurance Program (NFIP). He stressed the need to help communities and families become more resilient to flooding. He said reauthorization provides an opportunity to enhance the NFIP to support

resilience. He stated that his priorities for reauthorization include reliable access, affordability, expanding flood risk awareness and uptake of flood insurance, and improving mapping, mitigation, and floodplain management.

Ranking Member Patrick Toomey (R-PA) said finding a consensus on reauthorization is challenging and time is tight, but he hopes to reach an agreement can be reached on a long-term reauthorization. He emphasized the scope of the NFIP's challenges, noting that it has had borrow \$40 billion over the past 16 years to pay claims. He stated that the NFIP systematically underprices flood insurance, asserting that it is Congressional policies causing this issue and not Federal Emergency Management Agency's (FEMA) policies. He stated that NFIP is currently moving towards actuarially sound premiums through its Risk Rating 2.0 initiative, emphasizing that this progress should not be impeded. He stressed that Congress should encourage more private capital in the form of private coverage and private reinsurance. He stated that to the extent that subsidies persist they should be better targeted. He emphasized the need to better communicate flood risks to homeowners.

Senator John Kennedy (R-LA) described Risk Rating 2.0 as a "tire fire" and criticized its rollout. He stated that FEMA has not released how it will assess new premiums and has put a "gag order" on the insurance companies. He said FEMA has not promulgated a rule or allowed for public comment. He suggested that FEMA thinks they are smarter than Congress and the American people. Kennedy said he would be asking the Chairman to hold another hearing on this issue. He asserted that FEMA's models have not been tested and there has been no opportunity for public comment. He asserted that FEMA has crafted Risk Rating 2.0 in secret. He asserted that Risk Rating 2.0 will hurt working people in his state, with 80 percent of his constituents seeing an increase in premiums. FEMA Deputy Associate Administrator David Maurstad responded that Risk Rating 2.0 will address the problem of low value homes subsidizing high value homes. Kennedy said FEMA must do a better job of explaining how it is crafting these rates. He suggested that they are hiding behind consultants. Maurstad said FEMA has some of the best flood actuaries in the country. He said they used the same catastrophe models that the reinsurance industry uses to price their products. Maurstad pointed to the information available on their website, and he noted that they have done more than 450 stakeholder engagements since March 1.

Upcoming Hearings and Meetings

June 22

Treasury Nominations: The Senate Banking Committee will hold a hearing on the nominations of Brian Nelson to be Treasury Under Secretary for Terrorism and Financial Crimes, and Elizabeth Rosenberg to be Treasury Assistant Secretary for Terrorist Financing.

June 23

Markup: The House Financial Services Committee will hold a markup of legislation, including:

- [H.R. 2689](#), "The Minority Business Development Administration Act" (Rep. Al Green)
- [H.R. 3948](#), "The Greater Supervision in Banking (G-SIB) Act" (Rep. Ayanna Pressley)

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- [H.R. 3958](#), “The Central Liquidity Facility Enhancement Act” (Rep. Maxine Waters)
- [H.R. 3968](#), “The Municipal IDs Acceptance Act” (Rep. Ritchie Torres)

Retirement Security: The House Education and Labor Committee’s Subcommittee on Health, Employment, Labor, and Pensions will hold a hearing on “Examining Pathways to Build a Stronger, More Inclusive Retirement System.”

Treasury Department: The Senate Appropriations Committee’s Subcommittee on Financial Services and General Government will hold a hearing on the Fiscal Year 2022 budget for the Department of the Treasury. The witnesses at the hearing will be Treasury Secretary Janet Yellen; Noel Andres Poyo, Deputy Assistant Secretary Community and Economic Development, U.S. Department of the Treasury; Andy Anderson, President and CEO, Bank of Anguilla; and Joseph Haskins, Jr., Chairman and CEO, The Harbor Bank of Maryland.

June 24

Housing: The Senate Banking, Housing, and Urban Affairs Committee will hold a hearing entitled, “Examining Bipartisan Bills to Increase Access to Housing.” The witness will be Ms. Lisa Mensah, President and CEO of the Opportunity Finance Network. Other witness may also be added.

June 29

Credit Reporting: The House Financial Services Committee will hold a hearing entitled, “A Biased, Broken System: Examining Proposals to Overhaul Credit Reporting to Achieve Equity.”

Racial Justice: The House Financial Services Committee’s Subcommittee on Diversity and Inclusion will hold a hearing entitled, “The Legacy of George Floyd: An Examination of Financial Services Industry Commitments to Economic and Racial Justice.”

June 30

Cryptocurrency: The House Financial Services Committee’s Subcommittee on Oversight and Investigations will hold a hearing entitled, “America on “FIRE”: Will the Crypto Frenzy Lead to Financial Independence and Early Retirement or Financial Ruin?”

Climate Risk: The House Financial Services Committee’s Subcommittee on Consumer Protection and Financial Institutions will hold a hearing entitled, “Addressing Climate as a Systemic Risk: The Need to Build Resilience within Our Banking and Financial System.”

June 7

Asset Management Advisory Committee: The Securities and Exchange Commission (SEC) will hold a meeting of its Asset Management Advisory Committee. The meeting will include discussion of: (1) the ESG, Diversity & Inclusion, and Private Investments Subcommittee, including potential recommendations; and (2) the Evolution of Advice Subcommittee, including a panel discussion.

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

HEALTH

Supreme Court Upholds ACA

Key Points:

- *In a 7-2 opinion, the Supreme Court held states lacked standing to challenge the Affordable Care Act.*
- *Texas and other Republican-led states argued the elimination of the individual mandate penalty made that provision invalid and therefore, the entire law invalid.*

On June 17, the Supreme Court issued its opinion in *California v. Texas* upholding the Affordable Care Act. In the 7-2 opinion, the Court held Texas and other Republican-led states lacked standing to sue because “they have not shown a past or future injury fairly traceable to defendants’ conduct enforcing the specific statutory provision they as unconstitutional.” The Court goes no further than its decision on standing and does not address the merits of the case.

Texas and other Republican states initially filed the case after Congress adjusted the penalty under the individual mandate from \$695 to \$0. The states argued that without the penalty for noncompliance, the mandate was unconstitutional and without the mandate, the other provisions of the ACA are invalid. At the District Court, the judge held the mandate was unconstitutional and threw out the entire ACA. The 5th Circuit upheld the ruling that the mandate was unconstitutional but remanded the case back to the lower court to further consider whether the ACA was invalid. Before the case could be reconsidered, California and the Democrat-led House of Representatives petitioned the Supreme Court for review.

Department of Health and Human Services Secretary Xavier Becerra praised the decision saying, “today’s ruling is a victory for all Americans, especially people with a pre-existing condition or anyone who was worried they could be forced to choose between their health and making ends meet.” While he was Attorney General of California, Becerra led Democratic states in a petition to the Supreme Court to review the Fifth Circuit’s decision.

Read the full opinion [here](#).

HHS Proposes Rescinding Executive Order on Insulin and Epinephrine

Key Points:

- *The Department of Health and Human Services issued a proposed rule to rescind the rule requiring community health centers to pass all insulin and epinephrine discounts to patients.*
- *The Biden Administration had previously delayed the effective date of the rule until July 20 to give the agency time to review the rule and ensure it was not overly burdensome.*

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On June 16, the Department of Health and Human Services (HHS) issued a [proposed rule](#) to rescind a Trump Administration-issued rule that would have required community health centers to charge low-income patients no more than what health centers pay for insulin and epinephrine. The Biden Administration had previously delayed the effective date of the rule until July 20. Comments on the proposed rule are due July 16, 2021.

Health centers had expressed concern the rule added only administrative burden with little patient benefits as discounts are already passed on to patients. Health centers would be at risk of losing grants provided through the 340B program for failing to comply.

Upon completing its review, HHS is proposing rescinding the rule. The agency cited concerns on the administrative cost of the rule especially the diversion of resources to implement the rule. It also noted the ongoing needs of the COVID-19 pandemic especially health centers' role in administering vaccines.

Upcoming Hearings and Meetings

June 22

Vaccines: The Senate Health, Education, Labor and Pensions Committee will hold a hearing on “Vaccines: America’s Shot at Ending the COVID-19 Pandemic.”

June 24

HHS Nomination: The Senate Finance Committee will hold a hearing on the nomination of Melanie Anne Egorin to be an Assistant Secretary of Health and Human Services.

Public Health Data: The House Energy and Commerce Committee’s Health Subcommittee will hold a hearing on “Empowered by Data: Legislation to Advance Equity and Public Health.”

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

TRADE

House Ways & Means Democrats Introduce TAA, GSP, MTB Legislation

Key Points:

- *House Ways & Means Democrats introduced two bills to modernize and reauthorize the Trade Adjustment Assistance (TAA) programs, the Generalized System of Preferences (GSP), and the Miscellaneous Tariff Bill (MTB).*
- *The TAA Modernization Act of 2021 reauthorizes the TAA for Workers, TAA for Firms, and TAA for Farmers programs for seven years and expands eligibility, increases funding, improves benefits, and streamlines federal and state administration.*

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- *The Generalized System of Preferences and Miscellaneous Tariff Bill Modernization Act of 2021 extends the GSP through December 31, 2024 and provides retroactive benefits and suspends and reduces tariffs on certain eligible imports based on recommendations from the U.S. International Trade Commission (USITC) through December 31, 2023, retroactive for four months.*

On Thursday, House Ways & Means Committee Democrats introduced two bills to modernize and reauthorize the Trade Adjustment Assistance (TAA) programs, the Generalized System of Preferences (GSP), and the Miscellaneous Tariff Bill (MTB).

The TAA Modernization Act of 2021 ([text](#)) reauthorizes the TAA for Workers, TAA for Firms, and TAA for Farmers programs for seven years and expands eligibility, increases funding, improves benefits, and streamlines federal and state administration. The bill also establishes the TAA for Communities program, restores funding for the TAA for Community Colleges program, requires new outreach to historically underserved communities, and mandates innovative data collection on worker outcomes by race.

The Generalized System of Preferences and Miscellaneous Tariff Bill Modernization Act of 2021 ([text](#)) extends the GSP through December 31, 2024 and provides retroactive benefits. The bill also modernizes the program's eligibility criteria by adding an environmental criterion and updating the labor criteria. It adds new criteria on human rights, rule of law, anti-corruption, and equitable economic development and adds new annual country eligibility reviews and transparency requirements. The legislation also suspends and reduces tariffs on certain eligible imports based on recommendations from the U.S. International Trade Commission (USITC) through December 31, 2023, retroactive for four months. The American Manufacturing Competitiveness Act of 2016 (AMCA) would also be reauthorized for two cycles. The bill seeks to support domestic manufacturers and limit benefits for imports from China by excluding finished products from future MTB cycles.

GSP and MTB were extended in the Senate-passed United States Innovation and Competition Act of 2021 (USICA, [S. 1260](#), originally the China-focused “Endless Frontiers Act”); the TAA extension was not in the USICA as passed by the Senate. The TAA program expires on June 30, 2021.

U.S. Reaches Deals with U.K., EU on Airbus-Boeing Dispute

Key Points:

- *The U.S. reached identical agreements with the European Union (EU) and United Kingdom (U.K.) relating to the Airbus-Boeing disputes.*
- *The agreements would suspend all tariffs related to the Boeing-Airbus dispute, establish a trans-Atlantic working group on aircraft, improve subsidy transparency, and provide a platform to cooperate on a joint approach to the threat from China's subsidized aircraft sector.*

On Tuesday, the U.S. and European Union (EU) agreed to a framework that would suspend all tariffs related to the Boeing-Airbus dispute, establish a trans-Atlantic working group on aircraft, improve subsidy transparency, and provide a platform to cooperate on a joint approach to the threat from China's subsidized aircraft sector. The working group is aimed at overcoming any "disagreements that may arise between the sides" on aircraft subsidies and tariffs can be reimposed if one side does not hold up its end of the agreement.

On Thursday, the U.S. and United Kingdom (U.K.) announced that they have agreed to a five-year moratorium on retaliatory tariffs related to the Boeing-Airbus dispute. The agreement is identical to the U.S.-EU agreement.

Upcoming Hearings and Meetings

June 22

Trade in Asia - The Senate Finance Committee's Subcommittee on Trade and Investment will hold a hearing on "The Strategic Benefits of a Multilateral Approach to Trade Policy in the Asia-Pacific Region." The hearing will be at 2:30 pm, in 215 Dirksen Senate Office Building.

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.