



September 17, 2021

## Washington Update

### This Week In Congress

**House** – The House held a committee work week and met in pro forma session. Several committees, including the House Ways and Means and Energy and Commerce Committees, completed markups of their portions of the \$3.5 trillion reconciliation package.

**Senate** – The Senate confirmed James Kvaal to be Under Secretary of Education, as well as several judicial nominees.

### Next Week In Congress

**House** – The House is scheduled to consider the National Defense Authorization Act ([H.R. 4350](#)) for Fiscal Year 2022, the Women’s Health Protection Act ([H.R. 3755](#)), and a continuing resolution (CR) to fund the government beyond the current September 30 expiration date to either December 3 or December 10. The CR could potentially include additional items such as an increase in the debt ceiling, supplemental appropriations related to natural disasters, and an extension of the National Flood Insurance Program.

**Senate** – The Senate is expected to continue its consideration of pending nominations and may consider voting rights legislation. The Senate might also take up the CR once it is passed by the House.

## TAX

### **House Ways and Means Committee Concludes Their Markup of the Build Back Better Act and Transmits Their Recommendations to the House Committee on the Budget**

#### *Key Points:*

- *The House Ways and Means Committee concluded their markup of the Build Back Better Act this week and transmitted their recommendations to the House Committee on the Budget.*
- *The House Committee on the Budget will begin to compile a number of Committee’s recommendations into a final package for floor consideration.*

Last week, the House Ways and Means Committee began their [markup](#) of the Build Back Better Act [budget resolution](#). The Committee began marking up:

- [Legislative Text Subtitle A: Universal Paid Family and Medical Leave](#)
- [Legislative Text of Subtitle B: Retirement](#)
  - [JCT Description of Subtitle B](#)

- [Legislative Text of Subtitle C: Child Care Access and Equity](#)
- [Legislative Text of Subtitle D: Trade Adjustment Assistance](#)
- [Legislative Text of Part 1 of Subtitle E: Health Careers](#)
- [Legislative Text of Part 2 of Subtitle E: Elder Justice](#)
- [Legislative Text of Part 3 of Subtitle E: Skilled Nursing Facilities](#)
- [Legislative Text of Part 4 of Subtitle E: Medicare Dental, Hearing, and Vision Coverage](#)

This week the Ways and Means Committee concluded their markup by considering:

- Committee Print Consisting of Subtitles F, G, H, and J: [Legislative Text of Subtitles F, G, H and J: Infrastructure Financing, Green Energy, Social Safety Net, and Prescription Drugs](#) –JCT Description of:
  - [Subtitle F](#)
  - [Subtitle G](#)
  - [Subtitle H](#)
  - [Subtitle J](#)
- [Legislative Text of Subtitle I: Legislative Recommendations Relating to Funding Our Priorities](#)
  - [JCT Description of Subtitle I](#)

Additionally, attached [here](#) is the Revenue Table for the Tax Provisions of the Ways and Means Committee Bill.

In total, the Ways and Means Committee debated 66 amendments offered by Republicans and all 66 amendments were not adopted along party lines. The Committee did successfully report all the above subtitles including the Amendment in the Nature of a Substitute to add Subtitle I by a vote of 24-19 with all Republicans and one Democrat (Representative Stephanie Murphy (D-FL)) voting against the package. Representative Murphy explained she voted against every subtitle because of process concerns; she believed the process was too rushed and did not give the Committee time to debate the full package and there were many proposals included that would potentially be dropped along the way.

Beginning next week, the House Committee on the Budget will begin compiling the markup recommendations of the House committees with jurisdiction over the package. A number of committees including the House Ways and Means Committee, the House Energy and Commerce Committee and the House Transportation and Infrastructure Committee concluded their markups and submitted their recommendations to the House Committee on the Budget. That process is really a formality, and at this stage it is expected the Speaker will begin to negotiate with the Senate and the White House to develop a final package for floor consideration. How long that takes, what twists and turns await the package, and where it ends up all remain open questions.

## Upcoming Hearings and Events

### **September 21**

**Social Security:** On Tuesday, September 21, 2021 at 2:45PM EST, the Senate Finance Committee's Subcommittee on Social Security, Pensions, and Family Policy will hold a hearing entitled: "Policy Options for Improving SSI." The witnesses for this hearing will be; (1) Elizabeth Curda, Director, Education, Workforce, And Income Security, United States Government Accountability Office; (2) Stephen G. Evangelista, Deputy Commissioner for Retirement and Disability Policy; Social Security Administration; (3) Mia Ives-Rublee, Director, Disability Justice Initiative, Center for American Progress; and (4) Kathleen Romig, Senior Policy Analyst, Center on Budget and Policy Priorities.

*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**

### **SEC Chairman Gary Gensler Testifies in Senate Banking**

#### *Key Points:*

- *Democrats expressed support for expanded disclosures around climate change, human capital, cybersecurity, and political spending.*
- *Topics discussed in the hearing included Payment for Order Flow, cryptocurrency, gamification, money market funds, the Treasury market, and China.*

On September 14, the Senate Banking Committee held a [hearing](#) with Securities and Exchange Commission (SEC) Chair Gary Gensler.

Throughout the hearing, Democrats emphasized the need for expanded disclosures on a range of issues. Chairman Sherrod Brown (D-OH) and Senators Jon Tester (D-MT), Catherine Cortez Masto (D-NV), Tina Smith (D-MN), and Jon Ossoff (D-GA) expressed support imposing requirements for disclosures around climate risk. Gensler said investors increasingly want information about climate risk, stressing the need to provide comparable information. He noted that he has directed SEC to develop recommendations in this area, as well as for funds which market themselves as green or sustainable. Chairman Brown and Senator Mark Warner (D-VA) called for the SEC to implement mandatory disclosure requirements regarding human capital, expressing support for the Workplace Investment Disclosure Act ([S. 1815](#)). Senator Jack Reed (D-RI) noted that he has introduced the Cybersecurity Disclosure Act ([S. 808](#)), which would require public companies to disclose whether they have a cyber expert on their board, and if not, why they do not.

Republicans, led by Ranking Member Pat Toomey (R-PA), expressed opposition to proposals to ban Payment for Order Flow (PFOF). Toomey argued that today is the best time in history to be a retail

investor, pointing to the rise of zero commission trading and user-friendly mobile apps. He said in his view it is not the SEC's job to make retail investing more expensive, unpleasant, or difficult. He emphasized the need for adults to be free to decide how to invest. Senator Tim Scott (R-SC) expressed concern that banning PFOF would reduce retail investor access to wealth building opportunities. Gensler responded the entire market structure needs to be examined, as orders are not competing against each other. He noted that one wholesaler has 50 percent of the market share in the retail market. He asserted that he is pro-competition and he is not sure PFOF is the best way to support a competitive landscape. He said everything should be on the table, including rebates, tick size, and the national best bid and offer (NBBO). Senator Jack Reed (D-RI) expressed concern that PFOF presents an inherent conflict of interest.

Ranking Member Toomey and Senators Cynthia Lummis (R-WY) and Steve Daines (R-MT) stressed that the SEC should not inhibit innovation, particularly in the area of cryptocurrency. Toomey expressed doubt with Gensler's assertion that most cryptocurrencies are securities, adding that the SEC has not provided sufficient definition or clarified how it would apply the Howey test. He noted that stablecoins do not have an inherent expectation of profit, as they are linked to the dollar. He said people may use them in an attempt to make a profit, but this is a second order activity. He asked if stablecoins can be securities. Gensler said stablecoins "may well be securities." Toomey asserted that a stablecoin does not meet the second prong of the Howey test, which requires an expectation of profit, so it is not a security. Lummis urged to provide greater no action relief for innovators, while Daines called for a light touch regulatory approach.

## House Financial Services Approves Reconciliation Legislation

### *Key Point:*

- *The Committee approved its segment of the \$3.5 trillion reconciliation package with a vote along party lines.*
- *The Committee's legislation would provide \$339 billion, with more than \$300 billion going towards federal housing programs.*

On September 13 and 14, the House Financial Services Committee held a markup and approved its [portion](#) of the \$3.5 trillion reconciliation package. The Committee's segment of the bill would provide \$339 billion over Fiscal Years 2022 through 2031. More than \$300 billion of this funding would go to support new and existing federal housing programs. The bill would also provide \$5.7 billion to strengthen resilience under the National Flood Insurance Program (NFIP) and \$3.1 billion for the Minority Business Development Agency.

The package, as amended, was adopted by a vote of 30-24, along party lines. The only amendment adopted to the bill was a manager's amendment offered by Chairwoman Maxine Waters (D-CA). Republicans offered 26 amendments to the bill, of which only one was adopted. The Committee adopted an amendment offered by Representative Ann Wagner (R-MO) aimed at helping Afghan refugees grow businesses and access federal funding.

The Committee also favorably reported the Native American Housing Assistance and Self-Determination Reauthorization Act of 2021 ([H.R. 5195](#)) and the Expediting Assistance to Renters and Landlords Act of 2021 (H.R. 5196).

### **Biden Administration Announces Three CFTC Nominees**

#### *Key Points:*

- *President Biden nominated Rostin Behnam to serve as Chairman of the CFTC and for a second term as a Commissioner.*
- *Biden also nominated Kristin Johnson and Christy Goldsmith Romero to be Commissioners.*

On September 13, the White House announced that President Biden intends to offer the following three nominees to serve on the Commodity Futures Trading Commission:

- Rostin Behnam, to be Chairman and Commissioner
- Kristin Johnson, to be a Commissioner
- Christy Goldsmith Romero, to be a Commissioner.

Behnam is in his first term as a member of the CFTC and has served as Acting Chairman since former Chairman Heath Tarbert stepped down in January. Commissioner Brian Quintenz stepped down from the Commission on August 31. Commissioner Dan Berkovitz has announced his intention to step down on October 15, which would leave the Commission with only two confirmed members.

If confirmed, Behnam, Johnson, and Goldsmith Romero would fill the three Democratic seats on the Commission. The Biden Administration will also need to nominate someone to fill the vacant Republican seat on the Commission. Kristin Johnson is currently a Professor at Emory University School of Law. She previously served as assistant general counsel and vice president at JP Morgan. Christy Goldsmith Romero has served as the Special Inspector General for the Troubled Asset Relief Program (SIGTARP) since April 2011. She was previously an attorney in the Division of Enforcement at the SEC from 2003-2007.

### **Upcoming Hearings and Meetings**

#### **September 21**

***Personal Data:*** The House Financial Services Committee’s Task Force on Financial Technology will hold a hearing entitled “Preserving the Right of Consumers to Access Personal Financial Data.”

***Nominations:*** The Senate Banking Committee will hold a hearing on the nominations of Alan F. Estevez, to be Under Secretary of Commerce for Industry and Security; Thea D. Rozman Kendler, to be an Assistant Secretary of Commerce; Alexia Marie Gabrielle Latortue, to be an Assistant Secretary of the Treasury; and Graham S. Steele, to be an Assistant Secretary of the Treasury.

**September 23**

***Emergency Lending Powers:*** The House Financial Services Committee’s Subcommittee on National Security, International Development and Monetary Policy will hold a hearing entitled “Lending in a Crisis: Reviewing the Federal Reserve’s Emergency Lending Powers During the Pandemic and Examining Proposals to Address Future Economic Crises.”

**September 27**

***Small Business Capital Formation Advisory Committee:*** The SEC will hold a meeting of its Small Business Capital Formation Advisory Committee.

***Asset Management Advisory Committee:*** The SEC will hold a meeting of its Asset Management Advisory Committee.

**September 28**

***Financial Access:*** The House Financial Services Committee’s Subcommittee on Diversity and Inclusion will hold a hearing entitled, “Access Denied: Eliminating Barriers and Increasing Economic Opportunity for Justice-Involved Individuals.”

***CARES Act Oversight:*** The Senate Banking Committee will hold a hearing entitled “CARES Act Oversight of the Treasury and Federal Reserve: Supporting an Equitable Pandemic Recovery.”

**September 29**

***The Future of Banking:*** The House Financial Services Committee’s Subcommittee on Consumer Protection and Financial Institutions will hold a hearing entitled, “The Future of Banking: How Consolidation, Nonbank Competition, and Technology are Reshaping the Banking System.”

**September 30**

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

***Nominations:*** The Senate Banking Committee will hold a hearing on pending nominations.

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

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## ENERGY & ENVIRONMENT

### House Energy and Commerce Committee Advances Reconciliation Legislation

*Key Points:*

- *On September 15, the House Energy and Commerce Committee completed work on its portion of the \$3.5 trillion reconciliation bill.*
- *The Committee’s legislative recommendations include provisions addressing air pollution, hazardous materials, drinking water, and energy.*
- *The legislation would impose a fee on methane emissions and establish a Clean Electric Performance Plan to reduce greenhouse gas emissions from the electric generation sector.*

On Wednesday afternoon, the House Energy and Commerce Committee completed its three-day markup of “legislative recommendations to comply with the reconciliation directive included in section 2002 of the Concurrent Resolution on the Budget for Fiscal Year 2022, S. Con. Res. 14”. The Committee’s sprawling reconciliation package, which will be married to other House committees’ work products by the House Budget Committee, includes provisions addressing climate, energy, and environment issues:

- “[Subtitle A](#): Budget Reconciliation Legislative Recommendations Relating to Air Pollution”;
- “[Subtitle B](#): Budget Reconciliation Legislative Recommendations Relating to Hazardous Materials”;
- “[Subtitle C](#): Budget Reconciliation Legislative Recommendations Relating to Drinking Water”;
- and
- “[Subtitle D](#): Budget Reconciliation Legislative Recommendations Relating to Energy”.

Among the more significant provisions included in the package are:

- ***Methane Fee:*** The legislation establishes a fee on owners and operators “of certain facilities that report methane emissions under Subpart W of the Greenhouse Gas Reporting Program.” Covered facilities include: (1) “Offshore petroleum and natural gas production, and onshore petroleum and natural gas production”; and (2) “Natural gas processing, natural gas transmission and compression, underground natural gas storage, liquefied natural gas storage, liquefied natural gas import and export equipment, onshore petroleum and natural gas gathering and boosting, and onshore natural gas transmission pipelines.”
- ***Clean Electric Performance Plan:*** The legislation authorizes \$150 billion to provide grants for electricity suppliers that meet requirements for increasing the amount of clean electricity provided to customers. Electric power suppliers would be penalized for failing to meet the requirement for increasing clean electricity supplies.

A [Committee Memorandum](#) provides a summary of the legislation.

The Committee also compiled a [summary](#) of all the amendments offered during the markup and roll call vote tallies.

## FERC Actions and Developments

### Key Points:

- *This week the Federal Energy Regulatory Commission (FERC) released a podcast with Montina Cole, the Senior Counsel for Environmental Justice and Equity, and announced the appointment of a new Director for the Office of Enforcement.*
- *FERC also received an inquiry from Senate Energy and Natural Resources Committee Chairman John Barrasso on the Commission's handling of applications to construct new natural gas pipelines, as well as other issues.*

Federal Energy Regulatory Commission developments and activities this week included:

- ***Environmental Justice:*** In FERC's latest Open Access [podcast](#) Montina Cole, the new Senior Counsel for Environmental Justice and Equity, discussed her work at the Commission. Cole explained that while working in the public interest field she saw first-hand the disproportionate impacts front-line communities experience from environmental harm. Cole's role as a Senior Counsel is within the leadership of the Office of the General Counsel, an advisory role that helps support deliberations and decision-making within FERC. FERC's newly established Office of Public Participation (OPP) will take on a much more external role. It will focus on ensuring more meaningful opportunities for the public to participate in the Commission's processes. One of Cole's priorities as Senior Counsel is to ensure that FERC is consciously thinking about the implications of its decisions regarding environmental justice and equity. Furthermore, Cole wants FERC's decisions to be more consistent with the public's interests and to help historically marginalized communities. To achieve these goals, Cole explained that she will use a three-step approach that assesses the situation, asks what recommendations communities and other stakeholders have, and implements the best of those recommendations. The OPP will allow the Commission to receive input from impacted communities in new and different ways. Rather than holding talks with just people within FERC, the OPP allows environmental justice and underserved communities to share their experiences and voice their opinions. She noted that the court system will also continue to play an essential role in how FERC assesses environmental justice. These factors will allow FERC to adjust its processes, practices, and policies to better incorporate environmental justice and equity into its decision-making.
- ***Barrasso Questions FERC Commissioners:*** On Wednesday, Senate Energy and Natural Resources Committee Ranking Member John Barrasso (R-WY) sent a letter to FERC on its handling of pending issues, including its processing of pipeline certificates during the Commission's consideration of potential revisions to the Policy Statement on the Certification of New Interstate Natural Gas Facilities. On February 18, 2021, FERC issued a [Notice of Inquiry \(NOI\)](#) titled "Certification of New Interstate Natural Gas Facilities". The NOI requested public comment on potential revisions to FERC's 1999 [Statement of Policy](#), which set forth "guidance as to how the Commission will evaluate proposals for certificating new construction [of interstate

natural gas pipelines].” In his letter, Barrasso expressed concern that “pending projects may be held up and then evaluated under a new Policy Statement.” Barrasso posed a series of questions to FERC, including a request to “provide a chart showing the status of Certificate Applications currently under consideration by the Commission, showing the date on which each application was filed, and the current stage of review for each, and the standard of review that applies to each application and notice, if any, that the applicant had of changes in the standard.” In his letter, Barrasso also addressed FERC’s “Temporary Emergency Certificate to avoid potential gas supply shortages for metropolitan St. Louis, Missouri”, which the Commission issued following a U.S. Court of Appeals for the D.C. Circuit remand of a certificate issued for the Spire pipeline project. He also raised questions regarding “voluntary efforts to improve the functioning of the wholesale electric market in the southeastern United States.”

- ***Chairman Glick Names Director of the Office of Enforcement:*** On Monday, FERC Chairman Richard Glick named Janel Burdick as Director of the Commission’s Office of Enforcement. In a [statement](#) announcing the appointment, Glick declared that “[a] vigorous oversight and enforcement regime are absolutely essential to deterring market manipulation and protecting consumers”. Burdick served as Acting Director of the Office of Enforcement since February and has been with the Commission since 2009.

For scheduled FERC meetings and conferences, see “Upcoming Hearings and Events”.

## Upcoming Hearings Events

### September 20-25

***National Clean Energy Week:*** National Clean Energy Week will hold its annual [Public Policy Symposium](#). The event will focus on “the world’s most pressing challenges in nuclear, solar, wind, wave, hydropower, geothermal, natural gas, biomass, carbon capture, storage, and waste-to-energy technologies.”

### September 21

***Pending Nominations:*** The Senate Committee on Energy and Natural Resources will hold a hearing on the nominations of: Laura Daniel-Davis, to be an Assistant Secretary of the Interior (Land and Minerals Management); Camille C. Touton, to be Commissioner of Reclamation; and Sara C. Bronin, to be Chairman of the Advisory Council on Historic Preservation.

### September 22

***Pending Legislation and Nominations:*** The Senate Committee on Environment and Public Works will hold a business meeting to consider pending legislation and the nominations of: Jeffrey Prieto, to be General Counsel of the Environmental Protection Agency (EPA); Stephen A. Owens, to be a Member of the Chemical Safety and Hazard Investigation Board; Jennifer B. Sass, to be a Member of the Chemical Safety and Hazard Investigation Board; and Sylvia E. Johnson, to be a Member of the Chemical Safety

and Hazard Investigation Board. The Committee will hold a hearing on “the importance of promoting a circular economy” following the conclusion of the business meeting.

### **September 23**

***FERC Open Meeting:*** The Federal Energy Regulatory Commission (FERC) will hold its monthly [open meeting](#). The [agenda](#) includes: “2021 Cold Weather Event in Texas and the South Central U.S.”; and “Customer Matters, Reliability, Security and Market Operations”.

***Carbon Markets:*** The House Agriculture Committee will hold a [hearing](#) on “Voluntary Carbon Markets in Agriculture and Forestry”.

### **September 30**

***Bulk Power System Reliability:*** FERC will hold a [technical conference](#) “to discuss policy issues related to the reliability of the Bulk-Power System.”

### **October 12**

***Energy and Ancillary Services:*** FERC will hold the second of a two part [technical conference](#) on “energy and ancillary services markets administered by Regional Transmission Organizations and Independent Systems Operators”. Participants will discuss “potential energy and ancillary services market reforms...”

***National Coal Council:*** The Department of Energy’s Office of Fossil Energy and Carbon Management will hold a [virtual meeting](#) of the National Coal Council to address “advanced markets for value-added products from coal”.

### **October 14**

***Electric Quarterly Report Requirements:*** FERC will hold a [technical conference](#) “to provide a forum for Commission staff, filers, and data users to discuss potential changes to the current Electric Quarterly Report (EQR) data fields.”

### **October 21**

***FERC Open Meeting:*** FERC will hold its monthly [open meeting](#).

### **November 19**

***Greenhouse Gas Emissions of Natural Gas Facilities:*** FERC will hold a [technical conference](#) “to discuss methods natural gas companies may use to mitigate the effects of direct and indirect greenhouse gas emissions resulting from Natural Gas Act sections 3 and 7 authorizations.”

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

**HEALTH****House Committees Vote on Reconciliation Bills***Key Points:*

- *Over the past two weeks House committees considered and favorably reported the health care portions of the \$3.5 trillion reconciliation package.*
- *All provisions were favorably reported out of the committees except for the drug pricing portion from House Energy and Commerce, where three Democrats voted against the title forcing a tie vote.*

Over the past two weeks, the House Ways and Means, and Energy and Commerce Committees held markups that included various portions of the health care proposals in President Joe Biden's Build Back Better plan. Both committees favorably reported their provisions except for the Energy and Commerce Committee, which failed to report out the drug pricing section of its bill.

Due to the Committees' overlapping jurisdiction, both considered measures to add new benefits to the Medicare program. Under provisions passed in both committees, new hearing, vision, and dental benefits would be added to the Medicare program. Vision coverage would begin October 1, 2022; hearing would begin October 1, 2023; and dental would begin January 1, 2028. The Ways and Means package also included provisions on elder justice; addressing staffing shortages at long-term care facilities; and improving the accuracy of data reported by skilled nursing facilities to better understand quality and safety.

The House Energy and Commerce bill included a measure to provide cost-sharing reduction assistance to those within incomes below 138 percent of the federal poverty level for 2022 through 2024 for those purchasing insurance through the Affordable Care Act (ACA) marketplace. It also temporarily extends the ACA subsidies to those below 100 percent of the federal poverty level through 2024. In addition, the bill included the establishment of a federal Medicaid program beginning in 2025 that would be available to individuals in states that have chosen to not expand Medicaid. The bill made other changes to Medicaid such as allowing incarcerated individuals to become eligible 30 days before release and ensure 12-month continuous coverage for children and postpartum women receiving Medicaid benefits. Energy and Commerce also included a number of provisions to address public health and pandemic preparedness.

Both House Ways and Means and Energy and Commerce incorporated drug pricing provisions into their packages which was expected to be a significant pay-for to cover other policy provisions. These provisions largely mirrored those of H.R. 3 and included Medicare price negotiation for Parts B and D; inflation rebates; and reforms to the Part D program to lower beneficiary out-of-pocket costs. These provisions were favorably reported by the Ways and Means Committee with Representative Stephanie Murphy (D-FL) as the only Democrat to vote against it. In Energy and Commerce, the Committee vote

on the section was tied 29-29 with Representatives Scott Peters (D-CA), Kurt Schrader (D-OR), and Kathleen Rice (D-NY) joining Republicans potentially putting this large pay-for in jeopardy.

## Upcoming Hearings and Meetings

### September 21

**Opioids:** The Hill will host a discussion on “Advancing Health Equity in Our Nation’s Opioid Response.”

### September 22

**COVID-19:** The House Energy and Commerce Committee will hold a hearing on “Putting Kids First: Addressing COVID-19’s Impacts on Children.”

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

## TRADE

### **China Applies to Join the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP), White House Suggests Option of Negotiating Changes to Deal**

#### *Key Point:*

- *China has made the official first step of the CPTPP application process amidst other new trade agreements.*

China’s Commerce Ministry announced they have made the official request to be the 12<sup>th</sup> country to join the CPTPP. The 11 other countries China would need to receive approval from are Australia, Brunei, Canada, Chile, Japan, Malaysia, Mexico, New Zealand, Peru, Singapore, and Vietnam. In addition to member approval, China would need to show willingness to comply with CPTPP terms. China is also working on other trade agreements separate from this, including a free-trade agreement with Japan and South Korea and bilateral discussions with Norway and Israel.

The U.S. is not a member of the CPTPP due to previous labor union opposition and President Trump withdrawing from the agreement. Initially, the TPP agreement (which was the progenitor of the CPTPP) was designed by the Obama Administration as an economic counterweight to China in the region. China’s bid to enter the CPTPP flips that dynamic on its head.

Whether the U.S. would seek to re-enter remains a possibility but certainly is not clear. USTR Katherine Tai previously mentioned the Biden Administration is in no rush to join, however, White House Press Secretary Jen Psaki yesterday said the Administration is considering a range of opportunities. She indicated an option could be negotiating to join the CPTPP, but that changes to the deal would be needed.

**Possible New Section 301 China Probe Raises Concerns***Key Point:*

- *Multiple news outlets are reporting the Biden Administration is considering a second Section 301 probe into Chinese subsidies under the Trade Act of 1974.*
- *This would be in addition to the current probe started during the Trump Administration which imposed tariffs on billions of dollars of Chinese goods.*

The Office of the U.S. Trade Representative has been reviewing its China trade policies. This review includes the current Trump Administration Section 301 tariffs and the possibility of starting a new Section 301 probe into the economic impacts of Chinese subsidies. Analysts estimate a second Section 301 investigation could allow the Biden Administration the chance to lift and adjust or offer exclusions for the existing tariffs and provide the reasoning in justifying them. The Trump Administration's report on its Section 301 tariffs did not include an economic impact breakdown.

When considering the necessary research and data into the real impact of Chinese subsidies, analysts observe this target could both be difficult and controversial. Subsidies are a significant component of China's economic model and are provided at all levels of Chinese government. Moreover, replacing one set of tariffs on Chinese goods with another set of tariffs on Chinese goods remains an unpopular policy option for many U.S. companies paying the existing Section 301 tariffs on products and components from China and seeking some relief or exclusions.

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

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