



February 11, 2022

Washington Update

This Week In Congress

Senate – The Senate confirmed Douglas Bush to be Assistant Secretary of the Army, John Patrick Coffey to be General Counsel of the Department of the Navy, Scott Nathan to be CEO of the U.S. International Development Finance Corporation, Homer Wilkes to be Under Secretary of Agriculture, Chantale Yokmin Wong to be U.S. Director of the Asian Development Bank, Alexandra Baker to be Deputy Under Secretary of Defense, Reta Jo Lewis to be President of the Export-Import Bank, and Neil Harvey MacBride to be General Counsel of the Treasury Department.

House – The House passed a continuing resolution to fund the federal government through March 11, 2022 ([H.R. 6617](#)). The House passed the Ending Forced Arbitration of Sexual Assault and Sexual Harassment Act ([H.R. 4445](#)), which was subsequently passed by the Senate. The House also passed the Global Respect Act ([H.R. 3485](#)) and the Postal Service Reform Act ([H.R. 3076](#)).

Next Week In Congress

Senate – The Senate is expected to consider the continuing resolution passed by the House and the Postal Service Reform Act ([H.R. 3076](#)). The Senate is expected to continue its consideration of pending judicial, ambassadorial, and federal agency nominees, including Robert Califf to be Commissioner of the Food and Drug Administration.

House – The House is scheduled to hold a committee work week and meet in pro forma session.

TAX

Proponents of the Child Tax Credit Continue to Push for Its Expansion

Key Points:

- *Proponents of the CTC are continuing their push to convince Senator Manchin (D-WV) to help extend the enhanced CTC.*
- *Senator Manchin (D-WV) told reporters on Tuesday he is not a part of any ongoing discussions on the CTC.*

Earlier this week the Biden Administration held a press conference as a part of their continued outreach to get American families to file their taxes so that they can receive the second half of the payments from the expanded Child Tax Credit (CTC) authorized under the American Rescue Plan Act (ARPA) ([H.R. 1319](#)). During this press conference, proponents of the CTC continued to push to expand the credit

permanently. Democratic members of the Senate's efforts so far have failed to expand this credit after Senator Manchin (D-WV) announced he would not support the Build Back Better Act ([H.R. 5376](#)), which is the legislative vehicle including the provision. House Appropriations Committee Chair DeLauro (D-CT) said she has sent material to Senator Manchin answering his questions and added "we're not, you know, throwing in the towel on this."

However, Senator Manchin (D-WV) told reporters on Tuesday he was not a part of any organized discussions on the CTC. Additionally, during the White House's press conference on Tuesday, Senator Bennet (D-CO), a proponent of the CTC expansion, said "Senator Manchin has not slammed the door on this [CTC]." During the same event White House National Economic Council Director Gene Sperling said, "I assure you, no one in the Biden-Harris Administration is not still fighting hard or has given up." This push does come as members of the Democratic party are beginning to acknowledge the cost of the CTC over the long run. Senator Booker (D-NJ) explained the cost of the proposal is the "elephant in the room" as it was estimated by the Tax Foundation that extending the CTC over 10 years will add up to \$1.6 trillion to the deficit. At a separate February 8 event hosted by the American Enterprise Institute, Senator Romney (R-UT) explained there might be an opening for a bipartisan enhancement of the CTC outside the Democrats' reconciliation package. During this event Senator Romney (R-UT) highlighted his own proposal, the [Family Security Act](#), which would condense the Earned Income Tax Credit (EITC) and CTC into a single monthly cash benefit for families: \$350 per month for young children and \$250 per month for school-age children. The path forward on issue is slightly clouded as Congress turns their attention to FY2022 appropriations but what does remain clear is that the proponents of this tax credit are planning on continuing their push to win over Senator Manchin and other members of their caucus along with Republican members of both houses.

Senator Manchin (D-WV) Signals Support for Changes in Corporate, Minimum, and Capital Gains Tax Rates

Key Point:

- *Senator Manchin has signaled his support for raising a number of tax rates in efforts to offset future spending if pieces of the Build Back Better Act are to become law, or possibly to reduce the deficit.*

Earlier this week, Senator Manchin (D-WV) reiterated to reporters that the Build Back Better Act ([H.R. 5376](#)) as it was written, is still "dead." However, Senator Manchin did signal that he may be open to modifications to current tax rates. Senator Manchin (D-WV) has previously told reporters that he could support breaking up the "Build Back Better Act" into smaller pieces and putting them through regular legislative order. Senator Manchin (D-WV) originally raised significant concerns with the overall cost of the "Build Back Better Act" and it is expected he would support raising these tax rates as offsets for proposed spending in these smaller pieces of the legislation if they were to move forward.

Specifically, the Senator indicated that he would support raising the corporate tax rate to 25 percent, raising the capital gains tax rate to 28 percent, and imposing a minimum effective corporate tax rate of

15 percent. The exact avenue of how these increases will proceed is not clear, but if a smaller BBB bill moves some of these could be included. It is important to note that a 25 percent corporate tax rate is unlikely to be agreed upon by Senator Sinema (D-AZ) who has previously resisted efforts to raise the corporate tax rate or individual rates.

Upcoming Hearings and Events

February 15

Infrastructure: On Tuesday February 15 at 2:00PM EST, the House Ways and Means Committee's Select Revenue Measures Subcommittee will hold a hearing entitled: "Examining the Economic Impact of Federal Infrastructure Investment." The witnesses for this hearing have yet to be announced.

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 Financial Services, Senate Agriculture Committee Hold Hearings on Digital Assets

Key Points:

- *Members raised concerns with the PWG's proposal to require stablecoin issuers to be insured depository institutions.*
- *CFTC Chairman Behnam said the agency is well-suited to oversee the cash markets for digital assets.*

This week, the House Financial Services Committee and the Senate Agriculture Committee held hearings regarding digital assets. The House Financial Services Committee hearing focused on the President's Working Group on Financial Markets' Report on Stablecoins. Treasury Under Secretary for Domestic Finance Nellie Liang testified at the hearing.

Chairwoman Maxine Waters (D-CA) stated due to lack of investor protections stablecoins could affect American financial stability. She highlighted that the President's Working Group on Financial Markets (PWG) raised a number of concerns over regulatory gaps in the stablecoin markets which could harm ordinary users of the product and American financial stability. She stated the PWG recommended Congress take action to address these gaps and she stressed policymakers must ensure any innovation in this space takes into account financial inclusion and environmental concerns while ensuring investor protection remains at the forefront. Ranking Member Patrick McHenry (R-NC) said it is clear the digital asset industry needs legislation which will direct regulatory action. He contended that the Committee must act to clearly define the "rules of the road." He stated the PWG report views stablecoins as extremely risky and the PWG proposes to regulate stablecoins issuers as banks and giving them a federal backstop. He stressed this does not de-risk the financial sector because it will put increased risk on the American taxpayer.

Much of the debate at the hearing centered around the PWG [report](#) on stablecoins, particularly its recommendation that Congress pass legislation requiring all stablecoin issuers to be insured depository institutions (IDIs). Members of both parties raised concerns with the proposal, suggesting that it would limit innovation, give banks an advantage over non-bank financial institutions, and prevent stablecoins from enhancing financial inclusion. Liang said the PWG sought to balance innovation with reducing risk to users and the financial system. She stated that stablecoin issuers should be held accountable for being able to provide stability, which requires more regulation than they currently are under. She noted that the proposal relies on the premise that regulation of IDIs can be quite flexible. She said IDIs with simple business models would be subject to less stringent regulation than a commercial bank.

Representatives Blaine Luetkemeyer (R-MO), Andy Barr (R-KY), Ritchie Torres (D-NY), and John Rose (R-TN) contended that stablecoins backed by the U.S. dollar could enhance the dollar's role as the world's reserve currency.

Representative Rose disputed claims that stablecoins could pose a systemic risk, noting that their market capitalization is far lower than that of money market funds or U.S. Treasuries. Liang responded that while stablecoins currently do not pose a systemic risk, the PWG report looks at their ability to scale up rapidly once they become adopted. Representative Madeleine Dean (D-PA) asked about the Administration's work to understand the role of leverage in the digital asset market. Liang said it is too early to draw conclusions, but this is an important issue, as high leverage in a volatile asset can cause problems from the economy. She said the cost of a bubble could be high when prices are supported by financial leverage in the system, or when assets are connected to highly levered financial institutions.

On Wednesday, the Senate Agriculture Committee held a [hearing](#) entitled "Examining Digital Assets: Risks, Regulation, and Innovation." The Committee received testimony from Commodity Futures Trading Commission (CFTC) Chairman Rostin Behnam, as well as a panel of industry and academic witnesses. Chairwoman Debbie Stabenow (D-MI) stressed the need to have appropriate protections for investors in the digital asset market. She noted that many digital asset exchanges are unregulated or do not have the same standards as traditional financial institutions, which poses unacceptable risk to consumers. She said Congress must work with regulators and the Biden Administration to provide a regulatory framework that protects consumers and the environment and keeps the markets fair and competitive. Chairwoman Stabenow noted the CFTC plays a key role in this effort, as it currently regulates digital asset derivatives and polices fraud.

Ranking Member John Boozman (R-AR) stated as the digital asset and blockchain industry continues to grow, a question relates to the proper role of the federal government and regulators should play in encouraging greater innovation in this space while assuring market integrity and customer protection. He noted that digital asset spot markets are subject to a patchwork of regulation at the state and federal levels. He also said Congress needs to assess whether expanding the CFTC's regulatory footprint to oversee digital asset commodity spot markets is possible or prudent. He expressed confidence that the CFTC can rise to the challenge to be the right fit for an expanded role in digital asset spot markets, but

he said as Congress weighs legislative options, they must include exchanges, consumer advocates, and other market participants in discussions to make sure it works for all stakeholders. He emphasized that the rules of the road should be developed in a transparent and clear manner, so everyone knows what the rules are.

In his testimony, Behnam asserted “despite historically focusing on the derivatives market, the CFTC is prepared and well-suited to play an increasingly central role in overseeing the cash markets for digital assets.” He highlighted that no one regulator at a state or federal level with sufficient visibility into trading activity to fully police conflicts of interest and deceptive trading practices in the digital asset market. He observed several unique elements of the digital commodity asset cash market that would distinguish it from other cash commodity markets, suggesting it would benefit from direct CFTC oversight. He noted that he has directed CFTC staff to consider climate impact of cryptocurrency assets.

Senator Cory Booker (D-NJ) asked why Behnam believes the CFTC is the best agency to provide the right regulation to help this digital asset space thrive. Behnam underscored the need to ensure existing consumer protection guardrails are not eroded by this new innovation. He stressed the CFTC is a market regulator and the CFTC can continue to use its existing knowledge of market structure, surveillance, enforcement, the core foundations of what makes markets work and protect customers’ money. He added digital assets have been on the radar of the CFTC for five years now which, when compared to other regulators, is quite long.

SEC Issues Proposed Rules Regarding Private Fund Advisers, Cybersecurity Risk Management, and Shortening the Settlement Cycle

Key Points:

- *The SEC issued proposed rules regarding private fund adviser oversight, cybersecurity risk management, shortening the settlement cycle from two days to one day, and modernizing beneficial ownership reporting.*

On February 9, the Securities and Exchange Commission (SEC) held an [open meeting](#) and approved three items. The Commission approved [proposed rules](#) and amendments under the Investment Advisers Act of 1940 for private fund advisers and proposed amendments to the compliance rule under the Advisers Act. The SEC released a [fact sheet](#) explaining that the proposed rule regarding private fund advisers would do the following:

Require private fund advisers registered with the Commission to provide investors with quarterly statements detailing information about private fund performance, fees, and expenses;

Require registered private fund advisers to obtain an annual audit for each private fund and cause the private fund’s auditor to notify the SEC upon certain events;

Require registered private fund advisers, in connection with an adviser-led secondary transaction, to distribute to investors a fairness opinion and a written summary of certain material business relationships between the adviser and the opinion provider;

Prohibit all private fund advisers, including those that are not registered, from engaging in certain activities and practices that are contrary to the public interest and the protection of investors; and

Prohibit all private fund advisers from providing certain types of preferential treatment that have a material negative effect on other investors, while also prohibiting all other types of preferential treatment unless disclosed to current and prospective investors.

The Commission also issued [proposed rules](#) to address cybersecurity risk management for registered investment advisers and investment companies as well as related amendments to certain rules regarding adviser and fund disclosures under the Investment Advisers Act of 1940 and the Investment Company Act of 1940. A [fact sheet](#) provided the following summary of the cybersecurity risk management proposal's provisions:

Require advisers and funds to adopt and implement written policies and procedures that are reasonably designed to address cybersecurity risks;

Require advisers to report significant cybersecurity incidents to the Commission on proposed Form ADV-C;

Enhance adviser and fund disclosures related to cybersecurity risks and incidents; and

Require advisers and funds to maintain, make, and retain certain cybersecurity-related books and records.

Finally, the Commission voted to issue [proposed rules](#) and rule amendments under the Securities Exchange Act of 1934 to shorten the standard settlement cycle for most securities transactions. The proposed rules and rule amendments would be applicable to broker-dealers and certain clearing agencies. A [fact sheet](#) explained that the proposed rule on the settlement cycle would do the following:

Shorten the standard settlement cycle for securities transactions from two business days after trade date (T+2) to one business day after trade date (T+1);

Eliminate the separate T+4 settlement cycle for firm commitment offerings priced after 4:30 p.m.;

Improve the processing of institutional trades by proposing new requirements for broker-dealers and registered investment advisers intended to improve the rate of same-day affirmations; and

Facilitate straight-through processing by proposing new requirements applicable to clearing agencies that are central matching service providers (CMSPs)

Separately, on February 10, the SEC issued a [proposed rule](#) to modernize beneficial ownership reporting requirements. A [fact sheet](#) noted that the proposed changes would: (1) Accelerate the filing deadlines for Schedules 13D and 13G beneficial ownership reports; (2) Expand the application of Regulation 13D-G to certain derivative securities; (3) Clarify the circumstances under which two or more persons have formed a “group” that would be subject to beneficial ownership reporting obligations; and (4) Require that Schedules 13D and 13G be filed using a structured, machine-readable data language. Commissioner Hester Peirce released a dissenting statement opposing the proposal, in which she argued that release does not provide sufficient justification for shortening the reporting requirement under Section 13(d) from ten days to five days.

Upcoming Hearings and Meetings

February 15

Stablecoins: The Senate Banking Committee will hold a hearing entitled “Examining the President’s Working Group on Financial Markets Report on Stablecoins.”

Federal Reserve Nominations: The Senate Banking Committee will hold an executive session to consider the nominations to the Federal Reserve Board of Jerome Powell to be Chairman, Lael Brainard to be Vice Chair, Sarah Bloom Raskin to be Vice Chair for Supervision, and Lisa Cook and Philip Nathan Jefferson to Members of the Board.

February 16

Minority Depository Institutions: The House Financial Services Committee will hold a hearing entitled, “An Unprecedented Investment for Historic Results: How Federal Support for MDIs and CDFIs Have Launched a New Era for Disadvantaged Communities.”

February 17

International Monetary Fund: The House Financial Services Committee’s Subcommittee on National Security, International Development and Monetary Policy will hold a hearing entitled, “The Role of the IMF in a Changing Global Landscape.”

Minority-Owned Businesses: The House Financial Services Committee’s Subcommittee on Consumer Protection and Financial Institutions will hold a hearing entitled, “Small Businesses, Big Impact: Ensuring Small and Minority-Owned Businesses Share in the Economic Recovery.”

Insurance: The Treasury Department’s Federal Insurance Office (FIO) will hold a meeting of the Federal Advisory Committee on Insurance (FACI).

Wall Street: The Senate Budget Committee will hold a hearing entitled, “Warrior Met and Wall Street Greed: What Corporate Raiders are Doing to Workers and Consumers”.

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

ENERGY & ENVIRONMENT

Federal Environment and Energy Policy Developments to Watch in 2022

For an overview of pending policy developments and regulations, a Williams & Jensen [Energy and Environment Update](#) covers:

- Power Sector Greenhouse Gas Regulations
- HFCs
- Waters of the United States
- PFAS
- Renewable Fuel Standard
- Environmental Justice
- Pipeline Valve Regulations
- Gas Distribution System Rules
- FERC Review of Natural Gas Pipelines
- Bipartisan Infrastructure Law Implementation
- America the Beautiful Initiative
- EPA Oil and Gas Regulations

Upcoming Hearings and Events

February 15

Brownfields: The House Energy and Commerce Committee’s Environment and Climate Change Subcommittee will hold a [hearing](#) titled “Back from the Brink: Restoring Brownfield Sites to Economic Engines”.

Environmental Justice: The House Natural Resources Committee will hold a [hearing](#) on the “Environmental Justice For All Act” ([H.R. 2021](#)).

February 16

Electric Transmission: The Federal Energy Regulatory Commission (FERC) will hold a [meeting](#) of the “Joint Federal-State Task Force on Electric Transmission”. FERC established the Task Force on June 17, 2021, to “focus on topics related to planning and paying for transmission, including transmission to facilitate generator interconnection, that provides benefits from a federal and state perspective.”

February 17

FERC Opening Meeting: FERC will hold its monthly [open meeting](#). The [agenda](#) includes: “Implementation of Dynamic Line Ratings”; “Oil Pipeline Capacity Allocation Issues and Anomalous Conditions”; “Certification of New Interstate Natural Gas Facilities”; and “Consideration of Greenhouse Gas Emissions in Natural Gas Infrastructure Project Reviews”.

Hydrogen: The House Science Committee’s Energy Subcommittee will hold a [hearing](#) titled “H2Success: Research and Development to Advance a Clean Hydrogen Future”.

Natural Gas Pipeline Leak Mitigation: The Pipeline and Hazardous Materials Safety Administration (PHMSA) will hold a [“Webinar Addressing Inspection of Operators’ Plans to Eliminate Hazardous Leaks, Minimize Releases of Methane & Remediate/Replace Leak-Prone Pipe”](#). The webinar will focus on requirements for natural gas pipelines established by Congress in Section 114 of the “Protecting our

Williams & Jensen, PLLC
1201 Pennsylvania Avenue, N.W. Suite 800 Washington, D.C. 20004
Telephone: (202) 659-8201 Fax: (202) 659-5249
www.williamsandjensen.com

Infrastructure of Pipelines and Enhancing Safety (PIPES) Act of 2020” ([P.L. 116-260](#), Division R). PHMSA states that the “the webinar will address the following topics: 1) Key elements of Section 114; 2) Significant sources of natural gas (primarily methane) emissions from pipelines; 3) Discussion of which types of pipeline facilities must comply with each portion of Section 114; 4) PHMSA and state inspections, including reviews of a pipeline operator’s programs and procedures to reduce methane emissions; 5) Inspection topics related to methane reduction and leak-prone pipes; 6) General review of how operators’ programs and procedures will be inspected; and 7) The timelines for actions required by Section 114.” On June 10, 2021, PHMSA published an [Advisory Bulletin](#) titled, “Statutory Mandate To Update Inspection and Maintenance Plans To Address Eliminating Hazardous Leaks and Minimizing Releases of Natural Gas From Pipeline Facilities”. The bulletin advises natural gas pipeline operators of their obligations under Section 114.

February 28-March 1

Biofuels and Greenhouse Gases: The Environmental Protection Agency (EPA) will hold a “[Workshop on Biofuel Greenhouse Gas Modeling](#)”. The workshop is intended “to solicit information on the current scientific understanding of greenhouse gas modeling of land-based crop biofuels used in the transportation sector.” The workshop will develop information for a “range of current and future actions, including EPA’s methodology for quantifying the greenhouse gas emissions under the Renewable Fuels Standard.”

April 26

Hydroelectric Projects: FERC will hold a [technical conference](#) on whether the Commission “should require additional financial assurance mechanisms in the licenses and other authorizations it issues for hydroelectric projects”.

April 28

Winter-Readiness of Generating Units: FERC will hold a [Joint Technical Conference](#) with the North American Electric Reliability Corporation (NERC) concerning winter-readiness of generating units. The agenda includes discussion of “how to improve the winter-readiness of generating units, including best practices, lessons learned, and increased use of the NERC guidelines...”

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

HEALTH

Senate Finance Announces Mental Health Initiative

Key Point:

- *On February 8, the Senate Finance Committee announced the formation of policy groups to develop bipartisan mental health legislation with a goal of producing a bill by the summer.*

On February 8, the Senate Finance Committee announced it was increasing its legislative efforts to address the mental health care system at its hearing on “Protecting Youth Mental Health: Part I - An Advisory and Call to Action.” Chairman Ron Wyden (D-OR) announced Committee members will partner on specific policy challenges with one Democrat and one Republican working to produce a bipartisan bill. He stated Senator Tom Carper (D-DE) and Senator Bill Cassidy (R-LA) will focus on mental health care for America’s children; Senator Stabenow and Senator Steve Daines (R-MT) will address the mental health care workforce; Senator Catherine Cortez Masto (D-NV) and Senator John Cornyn (R-TX) will explore ways to make mental health care more seamless; Senator Michael Bennet (D-CO) and Senator Richard Burr (R-NC) will respond to issues surrounding parity; and Senator Ben Cardin (D-MD) and Senator John Thune (R-SD) will tackle delivery of mental health care through telehealth services.

The hearing featured testimony from U.S. Surgeon General Vivek Murthy focused on the obstacles young people face in accessing mental health care. He pointed to challenges like the ubiquity of technology and social media platforms which have exacerbated feelings of loneliness, futility, and low self-esteem. He asserted the uncertainty over the last two years has contributed to anxiety. Murthy recommended (1) ensuring every child has access to mental health care by expanding coverage, building out the mental health workforce, and offering care in various settings; (2) investing in school and community-based programs; (3) improving the understanding of the impact of technology; and (4) eliminating the stigma associated with mental health.

Topics discussed in the hearing included: (1) Stigma; (2) Parity; (3) Telehealth; (4) Mental Health Workforce; (5) School-Based Care; (6) Certified Community Behavioral Health Clinics; (7) Out of State Providers; (8) Rural Access; (9) Prevention; (10) Public Health Mandates; (11) Social Media; (12) In Person Learning; (13) COVID-19 Deaths; (14) Marijuana Use; (15) Gender Dysphoria; (16) Medicaid Data; (17) Delays in Treatment; (18) Eating Disorders; (19) Maternal, Infant, and Early Childhood Home Visiting Program; (20) Equity; (21) Youth Suicide; (22) Reimbursement Rates; (23) Federal Coordination; (24) Peer Support Services; (25) Childcare; and (26) Social Determinants.

The Senate Finance Committee will hold its next hearing on youth mental health on February 15.

Upcoming Hearings and Meetings

February 15

Mental Health: The Senate Finance Committee will hold a hearing on “Protecting Youth Mental Health: Part II - Identifying and Addressing Barriers to Care.”

Physicians: The House Judiciary Committee will hold a hearing on “Is There a Doctor in the House? The Role of Immigrant Physicians in the U.S. Healthcare System.”

February 17

Mental Health: The House Energy and Commerce Committee will hold a hearing on “Americans in Need: Responding to the National Mental Health Crisis.”

Coverage: The House Education and Labor Committee will hold a hearing on “Exploring Pathways to Affordable, Universal Health Coverage.”

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

CYBERSECURITY & PRIVACY

Senators Introduce Cybersecurity Legislation

Key Point:

- *On Tuesday, the Chair and Ranking Member of the Senate Homeland Security and Governmental Affairs Committee introduced a major cybersecurity bill, which includes critical infrastructure incident reporting legislation that Congress failed to enact in 2021.*

On February 8, Senate Homeland Security and Governmental Affairs Committee Chairman Gary Peters (D-MI) and Ranking Member Rob Portman (R-OH) introduced the “Strengthening American Cybersecurity Act of 2022” ([S. 3600](#)). The bill includes:

- The “Federal Information Security Modernization Act of 2022”;
- The “Cyber Incident Reporting for Critical Infrastructure Act of 2022”; and
- The “Federal Secure Cloud Improvement and Jobs Act of 2022”.

As described in a [press release](#), the legislation “would require critical infrastructure owners and operators to report to CISA within 72 hours if they are experiencing a substantial cyber-attack, and within 24 hours if they make a ransomware payment.”

U.S. Lawmakers Introduce Bill to Update Health Privacy Laws

Key Point:

- *Senators Tammy Baldwin (D-WI) and Bill Cassidy (R-LA) introduced the Health Data Use and Privacy Commission Act.*

Bipartisan legislation from Senators Tammy Baldwin (D-WI) and Bill Cassidy (R-LA) was introduced this week aimed to begin the process of modernizing health privacy laws and regulations. The “Health Data Use and Privacy Commission Act” ([S. 3620](#)) establishes a health and privacy commission to provide findings and recommendations to Congress. As described in a [summary](#) of the bill, the Commission is directed to undertake “a coordinated and comprehensive review and comparison of existing protections of personal health information at the state and federal level, as well as current practices for health data use by the health care, insurance, financial services, consumer electronics, advertising, and other industries.”

CIA Secretly Collected Data

Key Point:

- *Senators Ron Wyden (D-OR) and Martin Heinrich (D-NM) sent a letter to the directors of National Intelligence and CIA regarding programs that secretly collected bulk information on American citizens without congressional oversight. The agency replied that the programs involved counterterrorism intelligence-related activities pursuant to Executive Order 12333.*

Senators Ron Wyden (D-OR) and Martin Heinrich (D-NM) raised concerns that the Central Intelligence Agency (CIA) conducted its own bulk data program outside the statutory framework that Congress, and the public believe govern collection of data. A [letter](#) sent by the Senators was heavily redacted but criticized the action as being outside the oversight of the Foreign Intelligence Surveillance Act (FISA). The letter concluded by expressing concern that the nature and full extent of the CIA’s collection was withheld even from the Senate Select Committee on Intelligence.

FTC Data Privacy Rule Pressure Grows

Key Point:

- *The Federal Trade Commission (FTC) is under growing pressure to announce the federal rules protecting information collected by companies amid delays to fill a vacant seat on the Commission.*

Following years of stalled negotiations in Congress over a national privacy law, advocacy groups are looking to the FTC to create uniformity that supersedes the differing state privacy laws. Currently, the pending Senate confirmation of Alvaro Bedoya, a Georgetown University law professor, to fill the FTC’s empty fifth seat is slowing the process. Bedoya has said he supports the agency’s pursuit of data protection rules.

Pentagon Cyber Official Resigns After Security Clearance Dispute

Key Point:

- *Katie Arrington, the Chief Information Security Officer for the Pentagon's acquisition, and sustainment office, resigned. She was a former private sector cyber expert brought on during the Trump Administration.*

Katie Arrington, the Chief Information Security Officer at the Pentagon, who led a new cybersecurity initiative for defense contractors, officially resigned on February 7. Arrington had been placed on administrative leave when her security clearance was suspended after she reportedly disclosed unauthorized classified information.

IRS Announces it Will Halt the Use of Facial Recognition Software Following Data Security and Privacy Issues

Key Point:

- *Starting last year, taxpayers have been required to use ID.me software as a verification tool to access their online taxes.*

The Internal Revenue Service (IRS) announced it will stop the use of ID.me facial recognition software for user verification following bipartisan criticism over data security and privacy issues. The agency said it will use new verification tools that do not require facial recognition but has not determined what those would be. Several lawmakers, including the Senate Finance Committee Chairman Ron Wyden (D-OR) and House Ways and Means Committee Chairman Richard Neal (D-MA) issued statements expressing support for the decision.

For more information about cybersecurity issues you may email [Mabilet Makonnen](#) or [Frank Vlossak](#). Jackson Notes and Abbey Schroeder contributed to this section.

TRADE

Bipartisan Group of 41 Senators Call for USTR to Expand the China Tariff Exclusion Process

Key Point:

- *Senators Tom Carper (D-DE) and Rob Portman (R-OH) led a group of 41 Senators in sending a letter asking U.S. Trade Representative (USTR) Katherine Tai to qualify more companies to be eligible for exclusions from tariffs on goods imported from China.*

A bipartisan group of Senators wrote a [letter](#) to USTR Tai calling for the establishment of a comprehensive exclusion process for U.S. manufacturers, producers, and importers to request relief from tariffs placed on products from China pursuant to Section 301. The letter also calls for companies granted an exclusion to have the tariffs they paid refunded retroactively to when the Trump Administration's

tariff exclusions expired in December 2020. Tai has said only the paid tariffs since October 2021 will be refunded. Of note, a report released by the Government Accountability Office last summer said USTR rejected 87 percent of the approximately 53,000 tariff exclusion requests it received during the Trump Administration.

China Fell More than \$200 Billion of their Commitment to Buy U.S. Exports

Key Point:

- *In 2021, the annual trade deficit in goods with China came in around \$355 billion. This was up from \$10 billion in 2020 however nowhere near what China pledged.*

Under the Trump Administration negotiated Phase One trade deal, China committed to purchasing an additional \$200 billion of U.S. exports by December 21, 201. Chad Brown, a former Obama Administration trade adviser tracking China's purchases under the deal, found in his [research](#) that "China actually bought none of the additional \$200 billion of U.S. exports promised in the deal . . . because China could not even get up to baseline levels – those pre-trade war levels of 2017." Deputy USTR Sarah Bianchi stated last week that it was "really clear" that China had failed to meet the Phase One deal commitments. It is unclear how the Biden Administration will respond in 2022.

U.S. and Japan Announce Steel Deal with Focus on Overcapacity and Carbon Intensity

Key Point:

- *U.S. and Japanese officials on Monday reached a tariff-rate quota deal to end 25 percent steel tariffs imposed by the Trump Administration under Section 232 of the Trade Expansion Act of 1962.*

The announced U.S.-Japan steel deal will come into effect April 1st and will allow for 1.25 million metric tons of steel from Japan to enter the U.S. duty-free. Japan also has pledged to take, "concrete steps" in tackling excess capacity and carbon intensity. In a [press release](#) announcing the deal, USTR Tai said it will allowing the U.S. to "work together with Japan to combat China's anti-competitive, non-market trade actions in the steel sector," while reaching global climate goals.

Following the announcement, the UK is feeling pressure to reach a similar agreement, as the EU and the U.S. both have deals with Japan.

USMCA Consultations to Begin Between the U.S. and Mexico on Illegal Fishing

Key Point:

- *The U.S. and Mexico will start consultations under the U.S.-Mexico-Canada Agreement to address persistent illegal fishing that is threatening a rare variety of dolphins native to the Baja, California area.*

The USTR [announced](#) on Thursday that the U.S. and Mexico will begin consultations under the environment chapter of the USTR to address illegal fishing and fish trafficking in the Baja, California area. Conservation groups have warned that without action against Mexico, the vaquita dolphin could become extinct.

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.