

June 23, 2017

Washington Update

This Week in Congress

- **House** – The House passed the “**Accelerating Individuals into the Workforce Act**” (H.R. 2842), the “**Water Supply Permitting Coordination Act**” (H.R. 1654), the “**Electricity Reliability and Forest Protection Act**” (H.R. 1873), and the “**Reducing Barriers for Relative Foster Parents Act**” (H.R. 2866).
- **Senate** – The Senate confirmed **Marshall Billingslea** to be Assistant Secretary for Terrorist Financing, **Sigel Mandelker** to be Under Secretary for Terrorism and Financial Crimes and **Brock Long** to be Administrator of the Federal Emergency Management Agency (FEMA).

Next Week in Congress

- **House** – The House may consider “**Coast Guard Improvement and Reform Act of 2017**” (H.R. 1726), “**Veterans Expanded Trucking Opportunities Act of 2017**” (H.R. 2547), the “**Disaster Assistance Support for Communities and Homeowners Act of 2017**” (H.R. 1684) and the “**ADVANCE Act**” (H.R. 2258).
- **Senate** – The Senate will consider the nomination of **Kristine Svinicki** to be member of the Nuclear Regulatory Commission and may consider the “**Better Care Reconciliation Act of 2017.**”

TAX

Ryan Pledges that Permanent, “Transformational” Tax Reform Will Pass in 2017

Key Points:

- *The Speaker reiterates his goals for achieving “transformational” and permanent tax reform. In speech, he pledges that tax reform will get done in 2017.*
- *Ryan said the House and Senate are working with the Administration to turn the Administration’s set of tax principles into a transformational tax reform plan.*
- *Without specifically referencing the controversial House border adjustment tax (BAT), Ryan endorsed the House approach, but said he was open to solutions to achieve the same goal.*

On June 20, House Speaker Paul Ryan (R-WI) delivered a speech on the need for tax reform at the National Association of Manufacturer’s (NAM) annual summit. Ryan’s remarks were focused heavily on the broad themes of the need and benefits for tax reform, largely embracing the House Blueprint approach. In the speech, Ryan said “real tax reform means slashing our corporate tax rate as low as possible...[and] [t]his means eliminating special-interest carve-outs and replacing them with lower tax rates for all businesses.” He said the plan would focus on keeping deductions in

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the three areas of home ownership, charitable giving and retirement savings. Ryan said that tax reform must be “transformational,” permanent and happen this year. He committed to ending the estate tax and providing pass-through businesses with a special lower business rate.

In regards to the controversial border adjustment tax (BAT) proposal, Ryan said:

We want foreign companies to become U.S. companies. We must think differently, so that once again we make things here and export them around the world. There are a number of ways to achieve this—we in the House have our own idea—and that is one of the things that we are discussing with the Administration.

Ryan pledged that tax reform will be accomplished in 2017, saying that: “[w]e are going to get this done in 2017...[and] [w]e need to get this done in 2017.” He later added that ideally it would be finished in time for the start of deer season in Wisconsin.

Administration Plans to Release Detailed Tax Plan in Early September

Key Points:

- *National Economic Council Director Gary Cohn said the White House will present Congress its tax plan in the first two weeks of September.*
- *The Administration is working on a “unified plan” with considerations from the White House, Senate and the House.*

On June 20, National Economic Council Director Gary Cohn told a group of technology executives meeting at the White House that the

Administration and congressional Republicans are working to get a tax reform bill to the floor of Congress during the first couple weeks of September. Cohn added that the Administration is focused on negotiating a “unified plan,” because they do not want to be in the position of having “to be negotiating a bill on the floor.”

In a previous interview with Fox News, Cohn said “[w]e will have a very detailed, drafted tax plan to be delivered to Congress by when they get back from the August recess.”

Senate Republicans Release Draft Healthcare Reform Bill, Repeals Most Affordable Care Act Taxes

Key Points

- *Senate Republican Discussion Draft repeals most Affordable Care Act (ACA) taxes and provides significant delays for others. Tax repeal dates generally align with House-passed bill*
- *Senate Republican draft bill could be voted on as soon as next week*

On June 22, Senate Republicans released as a discussion draft the “Better Care Reconciliation Act of 2017,” legislation to repeal and replace the Affordable Care Act (ACA). The bill

Upcoming Dates

July 28: August Recess scheduled to begin

September 30: FY 2017 ends and FAA, SCHIP, and NFIP authorizations expire

Fall 2017: CBO’s projections of when Treasury exhausts extraordinary measures

December 31, 2017: Title VII of FISA expires

would create a new system of federal tax credits to help people buy health insurance.

In terms of the repeal of ACA taxes, the Senate draft largely mirrors the previous House-passed ACA repeal legislation. Taxes repealed in the draft include the medical device tax, the tax on some brand-name prescription medications and the tax on indoor tanning salons. The draft would also repeal the 3.8 percent tax on net investment income and the 0.9 percent Medicare surtax. The bill would delay the effective date of the 40 percent excise tax on high-cost employer health care plans or “Cadillac tax” to after 2025. Because Republicans plan to pass the bill using the budget reconciliation process, a straight repeal of the Cadillac tax would increase the deficit outside of the 10-year budget window, violating the rules of reconciliation.

Republican senators are expected to push for a vote on the measure the week of June 26 before leaving for the Fourth of July recess. The Congressional Budget Office plans to deliver an estimate of its costs and effects on insurance early next week.

House Passes Tax Credit Extension for Nuclear Power

Key Points:

- H.R. 1551 allows nuclear facilities currently under construction to claim the credit which is limited by current law to facilities operational before December 31, 2020.

This week the House of Representatives passed H.R. 1551, a bill to modify the production tax credit for advanced nuclear power facilities. The legislation would lift a requirement that nuclear facilities be placed in service by 2020 to be eligible for the credit. It would also allow

public and nonprofit entities to transfer credits to other partners on the facilities, such as the projects’ designers. The House Ways and Means Committee passed the bill, introduced by Representatives Earl Blumenauer (D-OR) and Tom Rice (R-SC), by voice vote on June 15, 2017.

Upcoming Hearings and Events

June 29

The House Ways and Means Committee’s Social Security and Oversight Subcommittees will hold a joint hearing on the “Complexities and Challenges of Social Security Coverage and Payroll Tax Compliance for State and Local Governments.”

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

FINANCIAL SERVICES

CFTC Holds Meeting of the Market Risk Advisory Committee; Senate Agriculture Committee Holds Hearing on Giancarlo Nomination

Key Points:

- CFTC Commissioner Sharon Bowen announced her intention to resign from the CFTC in the coming months or sooner if another Commissioner is confirmed.
- Senate Agriculture Committee Chairman Pat Roberts (R-KS) expressed support for confirming J. Christopher Giancarlo as CFTC Chairman.

On June 20, the Commodity Futures Trading Commission (CFTC) held a [meeting](#) of its Market Risk Advisory Committee (MRAC, or the Advisory Committee). The meeting included panels on: (1) Risk Surveillance

Activities of CFTC's Division of Clearing and Risk; (2) An Economic Perspective on the Clearing Regulatory Framework; and (3) Market Input - Brexit's Effects on Markets.

In her [closing remarks](#), MRAC Sponsor and CFTC Commissioner Sharon Bowen announced her intention to resign from the Commission in the next few months or sooner if another Commissioner is confirmed. She said the CFTC's work has been hampered by being a two member Commission since the departure of former Chairman Timothy Massad. She noted that the CFTC has not been a five member commission since August 2014, and that having only two commissioners makes routine business difficult and important policy decisions nearly impossible. She stressed the need to have a full five member commission, and she expressed hope her decision to leave early will inspire policymakers to confirm four commissioners as soon as possible.

Acting Chairman J. Christopher Giancarlo said the Commission is requesting additional resources to strengthen its clearinghouse oversight capabilities. He said he has advocated for relief from the misapplication of the Supplementary Leverage Ratio (SLR) to swaps clearing. He stated that he has proposed two changes to the SLR: (1) exclude customer cash collateral held at the central counterparty (CCP) from the bank's leverage calculation; and (2) take customer collateral held at the CCP into account in computing future exposure. He stated that his proposals will reduce clearing costs for customers by up to 70 percent, with only a 1 percent decrease in the capital held by the bank. He contended that this is a worthwhile trade off. Giancarlo said the EU introduced a legislative amendment to regulate third party central counterparties (CCPs), including a process to introduce a CCP location policy. He stated the CFTC and the European

Commission have an agreement on CCP equivalence, which the U.S. remains committed to. He stated that he does not contemplate any changes to the U.S-EC agreement, regardless of the outcome of the Brexit negotiations and the EU's internal discussions on how to supervise CCPs.

On June 22, the Senate Agriculture Committee held a [hearing](#) to consider the nomination of Giancarlo to serve as the permanent Chairman of the CFTC. Chairman Pat Roberts (R-KS) stressed the need for the CFTC to have strong leadership, and he noted the Committee previously approved Giancarlo's nomination to serve as a CFTC Commissioner by a unanimous vote. Roberts asserted that end-users did not contribute to the 2008 financial crisis, and there was bipartisan agreement in the drafting of the Dodd-Frank Act (DFA) that non-financial end-users should be exempted, but the CFTC has engaged in overreach. Roberts stated that Giancarlo is abundantly qualified to lead the CFTC.

Ranking Member Debbie Stabenow (D-MI) said Giancarlo has worked with the other Commissioners to fulfill the mission of the CFTC. She said Wall Street reform has brought greater transparency to the swaps market, but additional work is needed at the Commission. Stabenow stated that the CFTC has an insufficient budget, and she commended Giancarlo for breaking with the Administration and offering his own budget request. She noted that with Bowen's announcement to resign, the Senate will need to confirm nominees for the four vacant Commissioner positions as soon as possible.

Stabenow said the CFTC has made multiple efforts to complete its position limits rule. She asked if Giancarlo would commit to completing this rule without further delay.

Giancarlo responded in the affirmative, noting that he voted for the most recent proposal. He said he believes the Commission can complete a position limits rule.

Senator Kirsten Gillibrand (D-NY) said the CFTC is budget is \$250 million, which is far below that of prudential regulators with similar responsibilities. She said Giancarlo requested a 13 percent increase, while the President’s budget request would provide flat funding. She asked if Congress should look at how other prudential regulators like the SEC are funded. She suggested that mandatory funding mechanisms could be used to provide stable funding to the CFTC. Giancarlo said Presidents from both parties have called for a funding mechanism for the CFTC. He stated that the self-regulatory organization (SRO) in the derivatives market, the National Futures Association (NFA), is self-funded. However, he stated that he does not support imposing transaction fees because of their impact on liquidity, noting that he would utilize the funding mechanism if Congress decides to impose one.

House Financial Services Committee Approves Flood Insurance Reform Bills

Key Points:

- *The Committee favorably reported five bills to reform and reauthorize the National Flood Insurance Program (NFIP).*
- *The Committee reported two other flood insurance bills at a markup last week.*

On June 21, the House Financial Services Committee completed its [markup](#) of legislation to reform and reauthorize the National Flood Insurance Program (NFIP). The Committee approved the following five bills:

- The “Flood Insurance Market Parity and Modernization Act” ([H.R. 1422](#)),

introduced by Representative Dennis Ross (R-FL), which would require that private flood insurance be accepted and be considered similar to policies offered by the NFIP. It would also require that certain buildings and personal property be covered by flood insurance. The Committee favorably reported H.R. 1422, as amended, by a vote of 58-0.

- The “Repeatedly Flooded Communities Preparation Act” ([H.R. 1558](#)), introduced by Representative Ed Royce (R-CA), which would amend the National Flood Insurance Act of 1968 to require flood prone areas to development a community plan for mitigating the risk of flood if there are 50 or more repetitive loss structures or five or more severe repetitive loss structures. The Committee favorably reported H.R. 1558, as amended, by voice vote.
- The “Taxpayer Exposure Mitigation Act of 2017” ([H.R. 2246](#)), introduced by Representative Blaine Luetkemeyer (R-MO), which would repeal the mandatory flood insurance coverage requirement for commercial properties located in flood hazard areas and to provide for greater transfer of risk under the NFIP to private capital and reinsurance markets. The Committee favorably reported H.R. 2246, as amended, by a vote of 36-24, with Representative Lacy Clay (D-MO) and Representative Emanuel Cleaver (D-MO) voting in support.
- A bill to require the use of replacement cost value in determining the premium rates for flood insurance coverage under the “National Flood Insurance Act” ([H.R. 2565](#)), introduced by Luetkemeyer. The Committee favorably reported H.R. 2565, as amended, by a

vote of 34-25, with Representative Kyrsten Sinema (D-AZ) voting in support.

- The “National Flood Insurance Program Administrative Reform Act of 2017” ([H.R. 2875](#)), introduced by Representative Nydia Velazquez (D-NY), which would make administrative reforms to the National Flood Insurance Program to increase fairness and accuracy and protect the taxpayer from program fraud and abuse. The Committee favorably reported H.R. 2875 by a vote of 58-0.

The Committee approved two bills at its prior markup on June 15:

- The “National Flood Insurance Program Policyholder Protection Act of 2017” ([H.R. 2868](#)), introduced by Representative Lee Zeldin (R-NY), which would require a maximum 1-4 residential premium at \$10,000 and provide for mitigation credit for certain mitigation activities unique in urban areas. The Committee favorably reported H.R. 2868 by a vote of 53-0.
- The “21st Century Flood Reform Act of 2017” ([H.R. 2874](#)), introduced by Representative Sean Duffy (R-WI), which would include reforms intended to improve the financial stability of the National Flood Insurance Program and to develop more accurate estimates of flood risk through new technology and better maps. The Committee favorably reported H.R. 2874, as amended, by a vote of 30-26.

Chairman Jeb Hensarling (R-TX) expressed support for the bills being considered. He stressed the need to end the NFIP’s monopoly in the flood insurance market, emphasizing that

competition would result in reduced premiums for consumers.

Ranking Member Maxine Waters (D-CA) said H.R. 2246 is a harmful and misguided bill. She expressed opposition to repealing the mandatory purchase requirement for commercial properties, noting that the vast majority of properties without a mandatory purchase requirement do not have flood insurance. She said the bill would require the NFIP to annually cede a portion of its risk to the private reinsurance market or the capital markets. She argued that this provision “makes no sense,” noting that FEMA is already allowed to purchase reinsurance. She said FEMA intends to use its authority to make future reinsurance purchases. She said the bill would legislate complicated and burdensome requirements for reinsurance purchases, rather than allowing FEMA to negotiate the best deal. She said requiring FEMA to purchase reinsurance would give private reinsurers leverage in negotiating higher premiums. She also expressed concern with the mapping provisions of the bill, suggesting that they would only help wealthier communities.

Senate Banking Committee Holds Hearing on Regulator Perspectives on Fostering Economic Growth

Key Points:

- *Chairman Mike Crapo (R-ID) spoke in support of a number of reforms the financial regulatory system, including raising the \$50 billion systemic risk designation threshold for banks, exempting more banks from stress testing, and simplifying the Volcker Rule.*

On June 22, the Senate Committee on Banking, Housing & Urban Affairs held a [hearing](#) to discuss regulator perspectives on financial regulation and fostering economic growth. The

Committee received testimony from Federal Reserve Board Governor Jerome Powell, Federal Deposit Insurance Corporation (FDIC) Chairman Martin Gruenberg, National Credit Union Administration (NCUA) Acting Chairman J. Mark McWatters, Acting Comptroller of the Currency Keith Noreika, and Texas Department of Banking Commissioner Charles Cooper, testifying on behalf of the Conference of Bank Supervisors (CSBS).

Chairman Mike Crapo (R-ID) observed that there is bipartisan support to improve the regulatory framework. He noted that there is interest in altering regulations based on bank complexity, altering the \$50 billion Strategically Important Financial Institution (SIFI) threshold, simplifying the Volcker Rule, exempting more banks from stress testing, and simplifying small bank capital rules. He stressed that many efficiencies can be achieved without increasing systemic risk.

Ranking Member Sherrod Brown (D-OH) stated that the Committee must not forget “Wall Street greed” that caused the financial crisis. He said that new regulations have made the financial sector more secure and have allowed Americans to regain some of their lost wealth. He said that the Consumer Financial Protection Bureau (CFPB) protects Americans from scams and abuse, and he expressed concern that the recent Treasury Department report is “misguided” and a “Wall Street wish list” that seeks to alter capital liquidity rules and undermine the CFPB. He said that while lending is crucial to economic growth, lending has been healthy since the financial crisis under the current regulations. He said there is no evidence that relaxing rules will allow banks to lend more and suggested that any savings will likely be passed on to executives and shareholders.

Crapo asked the panel if changing the \$50 billion SIFI threshold for banks would be appropriate. Powell replied it would. Gruenberg noted that while a \$50 billion institution might not be systemic, the most expensive institution the FDIC insured was a \$30 billion institution. He said these smaller banks could still have significant consequences, especially for the deposit insurer. He expressed support for “tailoring” rather than changing the threshold. McWatters noted that the loss of a \$30 billion institution in the Share Insurance Fund would have far greater consequences than a loss of the same amount to the FDIC. Noreika said he believes that the threshold needs to be changed, and that it is being used as a competitive barrier to entry by the biggest banks. Cooper said it would be appropriate to base it on the risk profile.

Senator John Kennedy (R-LA) stated that flood insurance is a problem in Louisiana as well as most states in the nation. He noted the current National Flood Insurance Program (NFIP) authorization expires on September 30. He said it must be renewed and the Committee is working to renewing it. He asked if it would be a good for the Federal Emergency Management Agency (FEMA) to compile a list of mortgages in high-risk flood areas so they know who is supposed to carry flood insurance and who does not. Gruenberg said that this is a good idea because there is currently a lack of reliable data.

Senator Thom Tillis (R-NC) said some former Obama Administration officials have called for a reduction in the complexity of the Volcker Rule, while one has called for complete repeal. He asked what relief should be provided related to the Volcker Rule. Powell said the Federal Reserve is examining the statute to determine how they can make the Volcker Rule less

burdensome. He stated that the Federal Reserve has a lot of freedom to tailor the rule for large and small institutions. He said they could draw a line reducing the regulations for institutions below \$10 billion and they could also change the definitions of trading accounts and covered funds. He said Congress could play a role, such as by exempting banks below a certain level, without increasing systemic risk. He said the Volcker Rule was implemented in a way that was too costly, suggesting that regulators have a responsibility to address this problem. Gruenberg said the basic premise of the Volcker Rule is that risky proprietary trading should not be backed by insured deposits, suggesting that this premise is generally accepted. He said there are opportunities to simplify compliance while still achieving the intent of the rule, stating that the regulators will attempt to do so. He said he would support a regulatory safe harbor over a flat exemption. Noreika said the OCC supports a full review of the Volcker Rule. He said the rule should be revised and streamlined.

Senator Robert Menendez (D-NJ) noted that the Orderly Liquidation Authority (OLA) was created in response to Lehman Brothers bankruptcy and the financial crisis as a whole. He asked if this provision of the Dodd-Frank Act is critically important. Powell said that this provision is essential. Gruenberg agreed that it is crucial.

SEC Holds Meeting of the Investor Advisory Committee

Key Points:

- *SEC Chairman Jay Clayton expressed his interest in further work in the fixed income markets, assisting investors to make informed decisions and avoid fraud, and improving the attractiveness of listing in the public markets.*

On June 21, the Securities and Exchange Commission (SEC) convened a [meeting](#) of the Investor Advisory Committee (Advisory Committee or IAC) to discuss capital formation, smaller companies, and the declining number of initial public offerings (IPOs), as well as receive an overview of certain provisions in the Financial CHOICE Act of 2017 related to the SEC. The next meeting of the Advisory Committee will be in October 2017.

Chairman Jay Clayton explained in a [statement](#) that he shares the Advisory Committee's interests in promoting transparency for retail investors in the fixed income markets. He noted in November of last year, the Commission approved rules by FINRA and MSRB that will require disclosure to retail customers of mark-ups and mark-downs for certain transactions in fixed income markets. Clayton noted there are still discussions around pre-trade price transparency and he looks forward to engaging on that and other issues related to the fixed income markets. Chairman Clayton stated he shares the Committee's interests that Main Street investors, particularly older investors, have the tools they need to make informed investment decisions. He explained SEC staff have a number of efforts underway to simplify and enhance the tools available to help investors conduct background searches on their investment professionals and make informed decisions. Clayton noted he is also working with the staff on initiatives to educate investors on ways in which they can prevent themselves from becoming victims of fraud. Clayton expressed concern about the substantial decline in the number of U.S. IPOs and publicly listed companies in recent years. He noted that he and the Director of the Division of Corporation Finance have directed staff to explore ways in which the SEC can improve the attractiveness of listing on the

public markets, while maintaining important investor protections. Commissioner Kara Stein noted her focus on improving access to capital and informed investment decisions. She suggested that going public might be less beneficial for some companies and she questioned whether this is a sustainable system.

In the first panel the Advisory Committee discussed the decline in the IPO markets. E&Y Americas IPO Markets Leader Jackie Kelly stated the number of U.S. listed companies peaked in 1996 at approximately 8,000 and today is 4,000. She explained the decline was because of delisting and mergers/acquisitions. Kelly noted the average size of the IPOs has changed as well, and are over three times the size as in the 1990's. Brigham Young University Professor Jim Brau explained his research has found that many did an IPO because they wanted to create public shares so they could make additional acquisitions and most that refrained from doing an IPO did so because they wanted to maintain decision control. He suggested the M&A market is simply more efficient and quicker. Cowen and Company Chief Executive Officer Jeffrey Solomon explained the active manager market is "under siege" because of the rise in passive investment. He explained that active managers set the price and since there are fewer of those, determining the value of a company is getting harder. Duke University School of Law Associate Professor Elisabeth de Fontenay stated the U.S. is in the midst of a long decline in IPOs. She stated the stock of public companies is shrinking and suggested potential "culprits" are: increasing regulatory costs; impediments to liquidity; perceived adversarial relation between shareholders and management; and regulations encouraging concentration. Andreesen Horowitz Managing Partner Scott Kupor stated there are three related trends in the IPO market: a decline in

the number of IPOs; the characteristics of the IPOs have changed; and there is not as much "refreshing" in the number of listed stocks. Kupor stated there is a risk of creating a two-tiered capital market structure. When asked about the impacts of MiFID II on the markets Solomon stated the world is already moving towards unbundling and this is a regulatory requirement to disclose how much companies are spending on research. He suggested that it will result in less spending on research because no one wants to disclose they are spending more.

The second panel focused on several provisions of the Financial CHOICE Act. University of Virginia School of Law Professor Paul Mahoney stated that Title IV of the CHOICE Act aims at facilitating capital formation, including expanding the testing the water provisions, and providing a safe harbor for investment company research. Mahoney stated rule 14a-8 has been a "boon" to activists and the CHOICE Act narrows who can make shareholder proposals. NASAA Executive Director Joseph Brady stated the administrative procedure provisions would allow companies to remove cases to the courts. He stated the impact of these provisions would be significant as it would reduce the number of enforcement actions and their deterrent effect. Columbia Law School Professor John C. Coffee Jr. focused on SEC administrative enforcement, pointing to one provision in the CHOICE Act that he said would cripple enforcement, one that is a "nuclear" option, and others that will bog the process down but not be fatal.

Upcoming Hearings and Events

June 27

Department of Labor Budget: The Senate Appropriations Committee's Subcommittee on Labor, Health and Human Services, Education and Related Agencies will hold a hearing on the

FY2018 budget request for the Department of Labor. Secretary of Labor Alexander Acosta is scheduled to testify.

CFTC/SEC Budget: The Senate Appropriations Committee's Subcommittee on Financial Services and General Government will hold a hearing on the FY2018 budgets for the Securities and Exchange Commission (SEC) and the Commodity Futures Trading Commission (CFTC). Witnesses will be The Honorable Jay Clayton, Chairman of the SEC, and the Honorable J. Christopher Giancarlo, Acting Chairman of the CFTC.

Derivatives Clearinghouses: The House Agriculture Committee will hold a hearing entitled "Clearing the Next Crisis: Resilience, Recovery and Resolution of Derivative Clearinghouses."

Equity Market Structure: The House Financial Services Committee's Subcommittee on Capital Markets, Securities, and Investments will hold a hearing entitled "U.S. Equity Market Structure Part I: A Review of the Evolution of Today's Equity Market Structure and How We Got Here." Witnesses will include: Matt Lyons, SVP and Global Trading Manager, The Capital Group; Joseph Saluzzi, Partner, Themis Trading LLC; Ari Rubenstein, CEO, Global Trading Systems (GTS); Jeff Brown, SVP, Legislative & Regulatory Affairs, Charles Schwab; Thomas Farley, President, New York Stock Exchange; Brad Katsuyama, CEO, The Investors Exchange (IEX); Chris Concannon, President and COO, Chicago Board of Options Exchange; John Comerford, Head of Global Trading Research, Instinet; and Tom Wittman, EVP and Global Head of Equities, NASDAQ.

June 28

Federal Reserve: The House Financial Services Committee's Subcommittee on Monetary Policy and Trade will hold a hearing entitled "The Federal Reserve's Impact on Main Street, Retirees, and Savings."

Bank Secrecy Act: The House Financial Services Committee's Subcommittee on Financial Institutions and Consumer Credit will hold a hearing entitled "Examining the BSA/AML (Bank Secrecy Act/Anti-Money Laundering) Regulatory Compliance Regime."

June 29

Housing Finance Reform: The Senate Banking Committee will hold a hearing to discuss principles for housing finance reform. Witnesses will be David Stevens, President and Chief Executive Officer, Mortgage Bankers Association; Edward DeMarco, President, Housing Policy Council of the Financial Services Roundtable; and Michael Calhoun, President of the Center for Responsible Lending.

For more information about financial services issues you may [email](#) or call Joel Oswald at 202-659-8201. Alex Barcham and Rebecca Konst contributed to the articles.

ENERGY & ENVIRONMENT

Energy Subcommittee Approves Pipeline and Hydropower Legislation

Key Point:

- *On Thursday, the House Energy Subcommittee voted to advance five bills, including legislation to coordinate the natural gas pipeline permitting process and a bill to reform the federal review of cross-border energy infrastructure.*

On June 22, the House Energy and Commerce Committee's Energy Subcommittee held a [markup](#) and approved five bills:

- Legislation “to amend the Federal Power Act with respect to the criteria and process to qualify as a qualifying conduit hydropower facility” ([H.R. 2786](#)), which was introduced by Representative Richard Hudson (R-NC). The Subcommittee favorably reported H.R. 2786, as amended, by voice vote.
- The “Promoting Cross-Border Energy Infrastructure Act” ([H.R. 2883](#)), introduced by Representative Markwayne Mullin (R-OK), which would establish a more uniform, transparent, and modern process to authorize the construction, connection, operation, and maintenance of international border-crossing facilities for the import and export of oil and natural gas and the transmission of electricity. The Subcommittee favorably reported H.R. 2883 by a recorded vote of 19-12, with Representatives Gene Green (D-TX) and Kurt Schrader (D-OR) voting with Republicans for the bill.
- The “Promoting Interagency Coordination for Review of Natural Gas Pipelines Act” ([H.R. 2910](#)), introduced by Representative Bill Flores (R-TX), which would provide for Federal and State agency coordination in the approval of certain authorizations under the Natural Gas Act. The Subcommittee favorably reported H.R. 2910 by a roll call vote of 17-14.
- The “[Hydropower Policy Modernization Act of 2017](#)”, introduced by Representative Cathy McMorris Rodgers (R-WA). The

Subcommittee favorably reported the bill by voice vote.

- The “[Enhancing State Energy Security Planning and Emergency Preparedness Act of 2017](#)”, introduced by Subcommittee Chairman Fred Upton (R-MI), which would “amend the Energy Policy and Conservation Act to provide Federal financial assistance to States to implement, review, and revise State energy security plans...” The Subcommittee favorably reported the bill by voice vote.

Upcoming Hearings and Events

June 26-27

EIA Energy Conference: The Energy Information Administration (EIA) will hold its annual [Energy Conference](#). Conference topics include: “U.S. exports of crude oil and petroleum products”; “Renewable finance and project costs”; “The energy-water nexus and induced seismicity”; “The future of nuclear power”; “Gasoline fuel quality and octane supply”; “Big data and energy information”; “Natural gas infrastructure to serve growing markets”; “Coal and natural gas competition”; and “Human behavior and energy use in buildings”.

June 27

Natural Resources Committee Markup:

The House Natural Resources Committee will hold a [markup](#) to vote on pending legislation.

June 26-28

Increasing Market and Planning Efficiency through Improved Software:

The Federal Energy Regulatory Commission (FERC) will hold a [technical conference](#) on “opportunities for increasing real-time and day-ahead market efficiency through improved software.”

June 29

Oil and Gas Development on Federal Lands: The House Natural Resources Committee’s Energy and Mineral Resources Subcommittee will hold a [hearing](#) on “Examining Access to Oil and Gas Development on Federal Lands”.

June 29-30

Pipeline Safety Information-Sharing: The Pipeline and Hazardous Materials Safety Administration (PHMSA) will convene a [meeting](#) of its Voluntary Information-Sharing System Working Group. The agenda “will include briefings on topics such as mandate requirements, existing integrity management regulations, data types and tools, ILLI repair methods, geographic information system pipeline data and operator implementation, potential subcommittee needs, past integrity management lessons learned, examples of existing information-sharing systems, safety management systems, subcommittee needs, and the potential need for additional expertise with committee membership.”

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

DEFENSE

House Starts NDAA Markup, Senate To Follow Next Week

Key Points:

- *SASC and HASC will produce their FY 2018 NDAs next week, possibly clearing the way for early passage of the annual bill*

This week, all of the House Armed Services Committee’s Subcommittee held [markups](#) of their portions of the “FY 2018 National

Defense Authorization Act” (NDAA), most of which were concluded in less than ten minutes. As has been the custom for some time, the full committee markup will be the occasion for Members to offer substantive amendments, which is to be held on June 28. Nonetheless, the Subcommittees made their marks available:

- [Emerging Threats and Capabilities](#)
- [Tactical Air and Land Forces](#)
- [Readiness](#)
- [Strategic Forces](#)
- [Military Personnel](#)
- [Seapower and Projection Forces](#)

The Senate Armed Services Committee will also markup its FY 2018 NDAA next week with subcommittee markups on June 26 and June 27 and the full committee markup set to start on June 28, most of which will be closed to the public.

Shanahan Nomination Hearing

Key Points:

- *The Deputy Secretary of Defense-designate’s answers and qualifications are questioned*

This week, the Senate Armed Services Committee held a [hearing](#) to consider the nomination of former Boeing Vice President Patrick Shanahan to be the next Deputy Secretary of Defense. The sometimes rocky hearing on the second ranking civilian official at the Pentagon may clear the way for the Senate to confirm his nomination next month.

Chairman John McCain (R-AZ) remarked that “[i]n your questions that were submitted to you, one of the questions was providing the Ukrainians with lethal defense weaponry with which to defend themselves.” He asserted that “[i]nexplicably, you responded by saying you have to look at the issue,” [which is] not

satisfactory Mr. Shanahan.” McCain asked if he “wish[ed] to abridge or amend your statement.” Shanahan responded that “I support equipping the Ukrainians.” McCain responded that “[y]our response to that question was frankly, very disappointing to me.”

Ranking Member Jack Reed (D-RI) said that, if confirmed, Shanahan would encounter the Department of Defense’s (DOD) Third Offset, which is “essentially trying to counter technologically and otherwise, our adversaries, their aerial denial capabilities, their cyber capabilities, their asymmetric abilities and leap ahead with new technologies.” He noted that “Congress reestablished a position, Undersecretary of Defense for Research and Engineering...[b]ut as Deputy Secretary you’re going to play critical role in supporting the new or revised Undersecretary, but also reaching out to the whole community intelligence community, the industrial community, technologically community.” Shanahan stated that “[t]he effort I would undertake is to make sure we have a clear path to being able to operationalize the capability.” He added that “[w]hen I look at the strategy exercise that we’ll be conducting to put together the FY ‘19 budget, it’ll be critical that we have an assessment of how much funding needs to be applied against the Third Offset.”

Senator Deb Fischer (R-NE) referenced Shanahan’s testimony in which he “noted that Russia’s action in violation of the Intermediate-Range Nuclear Forces Treaty (INF Treaty), if it’s unchecked, could lead to doubt in the stability of current and future arms control agreements and initiatives.” She asked him to elaborate on this assertion and noted the view of some that holding violators accountable risks the collapse of such treaties, suggesting turning a blind eye to alleged violations. Shanahan responded that “I think the Russians

are adversarial...[and] I think through the whole of government, we need to deal with [Russian]...aggression or their disruption to our interests.” He added that “I, at this point, don’t have any specific recommendations...[but] [i]f confirmed, I will spend a significant amount of time dealing with Russia.” Fischer asked whether he would “be supportive of developing options to present to the President, besides diplomatic or just making statements and then letting it go by.” Shanahan answered that “I would be supportive.”

McCain interjected that “you’re not making me happy.” He contended that “[w]e expect straight forward answers and that you just ducked at basically every question that Senator Fischer asked you.” McCain asserted that “I’m not going to sit here and watch you duck every question and expect that everything is going to go smoothly...[i]t’s not.”

Senator Mazie Hirono (D-HI) noted that “you have limited institution experience in the military, DOD, or the Pentagon.” She said that “[i]n my experience I’ve seen the Deputy Secretary heavily involved with running the bureaucracy, while the Secretary works closely with the president, [National Security Council], Congress, allies.” Hirono asked how Shanahan will “overcome your lack of institutional experience to effectively operate in this environment.” Shanahan responded that “I’ve worked in environments where we have very disparate organizations, they may not be DOD, but in the commercial world, with many different suppliers and agency -like organizations, I believe that my technical and management background will prepare me to be able to quickly assimilate the knowledge and expertise to properly interface.”

Upcoming Hearings and Events

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June 26

FY 2018 DOD Appropriations Markup: The House Appropriations Committee’s Defense Subcommittee will hold a closed [markup](#) of the FY 2018 Department of Defense Appropriations Act.

NDAA Markup: The Senate Armed Services Committee’s Strategic Forces Subcommittee will hold a closed markup of the FY 2018 National Defense Authorization Act.

NDAA Markup: The Senate Armed Services Committee’s Seapower Subcommittee will hold a closed markup of the FY 2018 National Defense Authorization Act.

NDAA Markup: The Senate Armed Services Committee’s Airland Subcommittee will hold a closed markup of the FY 2018 National Defense Authorization Act.

NDAA Markup: The Senate Armed Services Committee’s Readiness Subcommittee will hold a closed markup of the FY 2018 National Defense Authorization Act.

NDAA Markup: The Senate Armed Services Committee’s Cybersecurity Subcommittee will hold a closed markup of the FY 2018 National Defense Authorization Act.

June 27

NDAA Markup: The Senate Armed Services Committee’s Emerging Threats Subcommittee will hold a closed markup of the FY 2018 National Defense Authorization Act.

NDAA Markup: The Senate Armed Services Committee’s Personnel Subcommittee will hold a closed markup of the FY 2018 National Defense Authorization Act.

June 28

NDAA Markup: The House Armed Services Committee will hold a markup of the FY 2018 National Defense Authorization Act.

NDAA Markup: The Senate Armed Services Committee will hold a closed markup of the FY 2018 National Defense Authorization Act.

FY 2018 Energy and Water Appropriations Markup: The House Appropriations Committee’s Energy and Water Development Subcommittee will hold a [markup](#) of the FY 2018 Energy and Water Appropriations Act.

For more information on defense issues you may [email](#) or call Michael Kans at 202-659-8201.

HEALTH**Senate Republicans Release Draft Health Reform Bill*****Key Points:***

- *The Senate bill would phase out Medicaid expansion over three years; repeal most Affordable Care Act taxes; provide stabilization funds; and provide tax credits for purchasing on the individual market.*
- *Four Senate Conservatives have already indicated they do not support the bill in its current form.*

On June 22, Senate Republicans released their [draft bill](#) which would repeal and replace portions of the Affordable Care Act (ACA). The Senate bill, entitled the “Better Care Reconciliation Act of 2017,” will be a substitute amendment to the House-passed American Health Care Act (AHCA). According to a [summary](#) from the Senate Budget Committee, the Senate bill will help stabilize collapsing insurance markets; free the American people from onerous Obamacare mandates; improve the affordability of health insurance; preserve

access to care; and strengthen Medicaid. The Congressional Budget Office is expected to complete its score early next week with Republican leadership expecting to vote before the July 4 recess.

The Senate bill would provide a short-term stabilization fund to help address access and coverage disruption with \$15 billion per year provided in 2018 and 2019 and \$10 billion provided per year in 2020 and 2021. Cost-sharing reduction payments would continue through December 31, 2019. The bill would eliminate most of the ACA taxes except the Cadillac tax which would be delayed until 2026. It also would repeal both the individual and employer mandates.

The Senate bill would phase-out Medicaid expansion over three years. States would have the option to choose between per-capita funding or a block grant. Beginning in 2025, the spending growth rate would be tied to the rate of increase in the consumer price index for urban consumers (CPI-U). The CPI-U generally has slower rate of increase than the medical CPI which was used in the House bill.

Beginning in 2020, the tax credit will be available to those whose income does not exceed 350 percent of the federal poverty line. The tax credit would be tied to a benchmark plan with an actuarial value of 58 percent, a decrease from the 70 percent required by current law. The credit would also vary based on the individuals rating area and age.

The bill would amend the ACA's Section 1332 waivers to give states even more flexibility to modify their insurance markets. The state application could include a waiver of the ACA's essential health benefit requirements. The bill would change the age band ratio to five to one or other ratio the state may determine. States

would determine the medical loss ratio. The bill would not change the requirements related to pre-existing conditions or cover for young adults up to age 26.

Several conservative Senate Republicans have already come out against the draft text. Senators Ted Cruz (R-TX), Ron Johnson (R-WI), Mike Lee (R-UT), and Rand Paul (R-KY) stated "it does not appear this draft as written will accomplish the most important promise that we made to the American people: to repeal Obamacare and lower their health care costs." Senator Cruz has called for an amendment that would allow catastrophic, low premium plans.

Health care groups such as the American Hospital Association, Federation of American Hospitals, American Academy of Pediatrics, and the American Association of Medical Colleges have all spoken out against the Senate bill. Senate Minority Leader Chuck Schumer (D-NY) asserted "the Senate Republicans health care bill is a wolf in sheep's clothing, only this wolf has even sharper teeth than the House bill."

A detailed section-by-section summary prepared by the Congressional Research Service is available [here](#).

Upcoming Hearings and Events

June 26

Antibiotics: The Food and Drug Administration (FDA) will hold a meeting of the Science Board to the FDA Advisory Committee to hear an update on FDA's biotechnology activities related to plant-derived food and animals and hear a report from the National Antibiotic Resistance Monitoring System Review Subcommittee.

Opioids: The Office of National Drug Control Policy will hold a meeting of the President's

Commission on Combating Drug Addiction and the Opioid Crisis.

June 27

Population Health: Politico will hold a discussion on “Is Population Health Popping?” focusing on addressing broad questions about the future of health care delivery.

Rehabilitation: The Coalition to Preserve Rehabilitation, the Habilitation Benefits Coalition, and the Independence Through Enhancement of Medicare and Medicaid Coalition will hold a briefing on “The Value of Rehabilitation and Habilitation Services and Devices.”

June 28

Advanced Care: The Coalition to Transform Advanced Care will hold a discussion on “Transforming Advanced Care: A New Campaign to Accelerate the Movement.”

Cybersecurity: The Bipartisan Policy Center will hold a discussion on “Cybersecurity and Medical Devices: Risk Assessment and Response.”

Health Insurance: The Urban Institute will hold a discussion on “Stabilizing the Individual Insurance Market.”

Opioids: The Cato Institute will hold a discussion on “A Modern Plague? How the Federal Government Should Address the Opioid Crisis.”

June 29

Medicaid: The Bipartisan Policy Center will hold a discussion on “Future of Health Care: Balancing Coverage and Cost in Medicaid.”

E-Cigarettes: The American Enterprise Institute for Public Policy Research will hold a

discussion on “Sensible Regulation of E-Cigarettes: Opportunities for Reform.”

Health Emergencies: The Johns Hopkins Center for Health Security and Trust for America’s Health will hold a seminar on “What is Needed Now to Prepare for Major Health Emergencies?”

Innovation: The American Enterprise Institute will hold a discussion on “The Role of Government in Medical Innovation.”

For more information about healthcare issues you may [email](mailto:nicole.ruzinski@aei.org) or call Nicole Ruzinski or George Olsen at 202-659-8201.

TRANSPORTATION AND INFRASTRUCTURE

FAA Reauthorizations Introduced

Key Points:

- *Both the House and Senate reauthorizations have been unveiled and will be marked up next week*
- *The same divide on privatizing ATC operations exists between the two bills as did last time Congress passed a reauthorization*

This week, both the House and Senate committees of jurisdiction released their reauthorizations of the Federal Aviation Administration (FAA) and scheduled markups for next week. Like the last time Congress was faced with an FAA reauthorization, the Chairman of the House Transportation and Infrastructure Committee is again proposing to spin off the air traffic control (ATC) operations of the FAA. However, unlike the last time this proposal was put forth, the White House supports the push to privatize these ATC operations. Yet, Senate Democrats appear to remain opposed to privatization and without

some Democratic votes, it would not be possible to pass a bill to privatize.

House Transportation and Infrastructure

In their [press release](#), House Transportation and Infrastructure Committee Chairman Bill Shuster (R-PA), Aviation Subcommittee Chairman Frank LoBiondo (R-NJ), Highways and Transit Subcommittee Chairman Sam Graves (R-MO), Aviation Subcommittee Vice Chair Paul Mitchell (R-MI), and Representatives Colleen Hanabusa (D-HI), and Kyrsten Sinema (D-AZ) announced the release of the “21st Century Aviation Innovation, Reform, and Reauthorization Act” (21st Century AIRR Act) ([H.R. 2997](#)). They noted that the bill is a six-year reauthorization and “also provides a number of important provisions and reforms to reduce red tape in the FAA’s certification process for aircraft and aviation products, improve the safety of air travel, improve the flying experience for consumers, foster innovation in unmanned aircraft systems (UAS), fund the Nation’s airport infrastructure, and separate our antiquated ATC service from the federal government and help finally modernize the system.”

They claimed that the “21st Century AIRR Act will:

- Cut Washington red tape so that our manufacturers can get products to market on time, stay competitive, and continue to employ millions of Americans.
- Encourage American innovation in aviation technologies to promote a stronger American workforce.
- Ensure that our airport infrastructure connects businesses and people to the world.

- Provide a better flying experience from gate to gate.
- Ensure access to the aviation system for everyone who depends on it – especially the Nation’s millions of general aviation users, and small and rural America.
- Provide Americans with a safe, efficient, modern system that uses 21st century technology to ensure more on-time departures, more direct routes, and less time wasted on the tarmac.

Senate Commerce, Science, and Transportation

In their [press release](#), Senate Commerce, Science, and Transportation Committee Chairman John Thune (R-SD), Ranking Member Bill Nelson (D-FL), Aviation Operations, Safety, & Security Subcommittee Chairman Roy Blunt (R-MO), and Ranking Member Maria Cantwell (D-WA) stated that “Federal Aviation Administration (FAA) Reauthorization Act of 2017” ([S. 1405](#)) “reauthorizes federal aviation programs through FY 2021.”

The sponsors noted the following highlights of S. 1405:

- **CONSUMER PROTECTION & AIR TRAVEL ENHANCEMENTS** – Includes new consumer protections for the flying public, updates Department of Transportation (DOT) rules following high-profile airline incidents, and takes steps to help passengers needing assistance during air travel.
- **DRONE SAFETY & INNOVATION** – Addresses safety and privacy issues, criminalizes reckless drone behavior around manned aircraft and runways, authorizes FAA drone registration authority, and boosts

enforcement while creating new opportunities for testing and promoting innovative uses.

- **AIRLINE SAFETY IMPROVEMENTS & AVIATION ACCESS** – Includes new requirements on the bulk transfer of lithium batteries, improves communicable disease preparedness, and supports contract air traffic control towers, which largely serve rural communities.
- **GENERAL AVIATION (GA) SAFETY & PROTECTIONS** – Offers GA airports more flexibility to facilitate infrastructure investment, applies the same medical certificate requirements to air balloon operators as other licensed pilots, and expands the rights of pilots in FAA enforcement proceedings.
- **AIRCRAFT CERTIFICATION REFORMS** – Improves international competitiveness of U.S. aerospace manufacturing by improving the FAA’s processes for certifying aircraft designs and modifications, as well as ensuring the benefits of such certification processes for manufacturers competing in global markets.
- **AIR TRAFFIC CONTROL & NEXTGEN** – Acts on recommendations of independent government watchdogs for improving the FAA’s transition to 21st century air traffic control technologies known collectively as “NextGen” and requires the FAA to assess how each NextGen program contributes to a more safe and efficient air traffic control system and its current implementation status.
- **INFRASTRUCTURE INVESTMENT & STUDY** – Increases authorized funding for the Airport Improvement Program (AIP),

which pays for infrastructure like runways, by \$400 million to an annual level of \$3.75 billion (well within the projected trust fund surplus), and streamlines the application process for Passenger Facility Charges (PFC). Requires a study and recommendations on upgrading and restoring the nation’s airport infrastructure.

Intercity Passenger Rail Hearing

Key Points:

- *The Subcommittee surveys the state of rails programs*

On May 17, the House Transportation and Infrastructure Committee’s Railroads, Pipelines, and Hazardous Materials Subcommittee held a [hearing](#) entitled “Building a 21st Century Infrastructure for America: Challenges and Opportunities for Intercity Passenger Rail Service.” Topics discussed in the hearing included: (1) California Rail; (2) Regulations; (3) Amtrak Long Distance Routes; (4) Portal Bridge; (5) Federal Investment; (6) Northeast Corridor; (7) Gateway Project; (8) Amtrak Funding; (9) Connecticut Inland Route; (10) Brightline; (11) Made in America; (12) Empire Rail Service; (13) Florida East Coast Rail; and (14) Illinois Rail.

Chairman Jeff Denham (R-CA) said he is pleased to see progress made on the “Passenger Rail Investment and Improvement Act of 2008” (PRIIA). He said a methodology to allocate costs among all the users of the Northeast Corridor is in the process of being implemented. He said Amtrak will receive \$286.6 billion from 18 states and \$119 million from other commuter authorities. He said the approach to intercity passenger rail service has been scattershot. He stated that over \$10 billion was appropriated by the “American

Recovery and Investment Act” (ARRA) during the fiscal year 2010. He said instead of investing these funds, the Obama Administration distributed them widely. He stated there is \$1 billion left of the \$8 billion from ARRA, which will be given back to the Department of the Treasury. Denham expressed concern that \$4 billion of those funds was spent on the California high-speed rail project. He said that project has nearly doubled its spending and pushed back its completion date. He stated that other members of the Subcommittee may also have concerns about projects to receive ARRA funding. He stated that projects need to be better prioritized. He said the hearing would also focus on understanding new technologies.

Full Committee Ranking Member Peter DeFazio (D-OR) said the President had proposed to take the nation backward with devolution and privatization proposals. He stated that 90 percent of projects in surface go through categorical exclusion, five percent go through minimal analysis, and 5 percent go through National Environmental Policy Act (NEPA) analysis. He said that the Department of the Treasury said public funding is hindering the completion of transportation and infrastructure projects. He mentioned the proposed cuts in the FY 2018 budget request, including \$95 billion in cuts to highways, transit and safety over 10 years, \$20 billion in cuts to New Start Transit Program, \$1 billion in cuts to the Army Corps Engineers, and \$250 million in cuts to the FAA. He said the President also wanted to cut all 15 Amtrak long-distance routes and aimed to cut essential air service. DeFazio said he hoped to get down to building 21st Century infrastructure for America. He said he had introduced three bipartisan bills that total \$560 billion of “real investment.” He said the White House wants to bribe the states to sell their interstates. He said they will pay 10-15

percent commission for selling the public infrastructure to private interests. He stated he hoped the Subcommittee could find the investment money Amtrak needs for the Northeast Corridor and the national system.

Federal Railroad Administration (FRA) Associate Administrator for Railroad Policy and Development Paul Nissenbaum said the FRA would like to recognize the Committee’s commitment to rail embodied in the FAST Act. He said that the “Fixing America’s Surface Transportation (FAST) Act” (P.L. 114-94) included an intercity passenger rail reauthorization. He stated that the FAST Act builds on policies and programs this subcommittee established in 2008. He said the act also shifted the responsibility to the states and authorized passenger grant programs. This included the High-Speed Intercity Passenger Rail (HISPR) program which has increased reliability, reduced travel times and made stations and equipment more efficient and accessible. Nissenbaum said there are potential rail capital projects ready for funding. He said the FRA has established a risk-based oversight program including the HISPR program. The oversight approach comprises three major components: grant compliance, technical assistance to grantees, and project implementation and oversight. He said the FRA has been working with Amtrak to make changes to its account structure and planning and reporting requirements. He mentioned the “Consolidated Appropriations Act, 2017” (P.L. 115-31) and the competitive rail grants authorized in the FAST Act. He said the Department of Transportation (DOT) provides credit opportunities including the Transportation Infrastructure Finance and Innovation Act (TIFIA) and private activity bonds project that sponsors could pursue. These projects are managed by the Department’s Build America Bureau. He said

these programs work together to ensure efficient funding and will improve Amtrak's transparency. He said making investments in rail that are market appropriate will ensure meeting the demands of America's growing economy.

Amtrak President and Chief Executive Officer Charles W. "Wick" Moorman IV said Amtrak is taking important steps to reach the next level of success. He noted that Amtrak is the only high-speed intercity passenger railway. He said the company remains "relentlessly focused on safety and efficiency." He said that Amtrak enables the economic vitality of America. He stated that with their Penn Station program, they will accelerate years of overdue infrastructure updates. He said the Gateway Program Development Corporation project will help address capacity and resiliency. He explained that Amtrak plans to make improvements, pursue partnerships to enhance the stations, and engage master developers. He said public-private partnerships will improve stations. He said investments made now will allow Amtrak to ensure expansion.

No States In Compliance With FTA SSO Program

Key Points:

- *The FTA announces that none of the states with heavy rail transit have complied with a MAP-21 requirement that if less unaddressed could result in the withholding of all FTA formula funding in 2019*

This week, the Federal Transit Administration (FTA) released a [status update](#) of states in setting up the State Safety Oversight (SSO) Program required for most transit systems in the "Moving Ahead for Progress in the 21st Century Act" (MAP-21) (P.L. 112-141). Additionally, at present, no state has met all the

SSO requirements, and if any state has not done so by April 15, 2019, then the FTA cannot, by law, obligate any formula funding for that state. Additionally, the FTA has updated and released the "[SSO Program Certification Toolkit](#)" to help states come into compliance with the SSO requirements. The FTA further cautioned that those states that submit applications for SSO certification after September 30, 2018 should not assume the FTA will be able to certify compliance by April 15, 2019.

In their [press release](#), the FTA explained that:

When FTA's [SSO Program final rule](#) took effect in April 2016, it established a three-year timeframe for states to obtain certification for their SSO Programs. With the certification deadline less than two years away, FTA is encouraging states to act quickly to enact any necessary legislation, statutes and regulations, particularly those states whose legislatures meet only part-time or biennially. Currently, there are nine states remaining that still require legislative action at the state level prior to FTA certification.

The FTA added that:

In order to achieve FTA certification, an SSO Program must meet several federal statutory requirements, including that the designated SSO agency tasked with performing safety oversight has financial and legal independence from the rail transit agencies it oversees. In addition, a state must ensure that its SSO agency adopts and enforces relevant federal and state safety laws, has investigatory authority, and has appropriate financial and human resources for the number, size and complexity of the rail transit

systems within its jurisdiction. Furthermore, SSO agency personnel responsible for performing safety oversight activities must have proper training and certification.

Upcoming Hearings and Events

June 27

FAA Reauthorization Markup: The House Transportation and Infrastructure Committee will [markup](#) the “21st Century Aviation Innovation, Reform, and Reauthorization Act” (21st Century AIRR Act) ([H.R. 2997](#)).

Self-Driving Cars Markup: The House Energy and Commerce Committee’s Digital Commerce and Consumer Protection Subcommittee will hold a markup of the following bills:

- [H.R. _____, Let NHTSA Enforce Autonomous Vehicle Driving Regulations \(LEAD’R\) Act](#)
- [H.R. _____, Practical Automated Vehicle Exemptions Act](#)
- [H.R. _____, Renewing Opportunities for Automated Vehicle Development Act](#)
- [H.R. _____, Expanding Exemptions to Enable More Public Trust Act](#)
- [H.R. _____, Maximizing Opportunities for Research and the Enhancement of Automated Vehicles Act](#)
- [H.R. _____, Increasing Information and Notification to Foster Openness Regarding Automated Vehicle Matters to States Act](#)
- [H.R. _____, Disability Mobility Advisory Council Act](#)
- [H.R. _____, Improving Mobility Access for Underserved Populations and Senior Citizens Advisory Council Act](#)
- [H.R. _____, Automated Driving System Cybersecurity Advisory Council](#)
- [H.R. _____, Sharing Automated Vehicle Records with Everyone for Safety Act](#)
- [H.R. _____, Highly Automated Vehicle Pre-Market Approval Reduces Opportunities for More People to Travel Safely Act](#)
- [H.R. _____, Guarding Automakers Against Unfair Advantages Reported in Public Documents Act](#)
- [H.R. _____, Managing Government Efforts to Minimize Autonomous Vehicle Obstruction Act](#)

June 29

FAA Reauthorization Markup: The Senate Commerce, Science, and Transportation Committee will consider the following bills and nominations at a [business meeting](#):

- [S. 1405](#), Federal Aviation Administration Reauthorization Act of 2017, Sponsors: Sens. John Thune (R-S.D.), Bill Nelson (D-Fla.), Roy Blunt (R-Mo.), Maria Cantwell (D-Wash.)
- [S. 875](#), To require the Comptroller General of the United States to conduct a study and submit a report on filing requirements under the Universal Service Fund programs, Sponsor: Sen. Dan Sullivan (R-Alaska)
- [S. 1426](#), United States Center for Safe Sport Authorization Act of 2017, Sponsors: Sens. John Thune (R-S.D.), Bill Nelson (D-Fla.)
- [S. 1393](#), Jobs for Our Heroes Act, Sponsors: Sens. John Cornyn (R-Texas), Elizabeth Warren (D-Mass.), Thom Tillis (R-N.C.)
- Nomination of Vice Admiral David P. Pekoske, of Maryland, to be Assistant Secretary of Homeland Security, Transportation Security Administration
- Nomination of Robert L. Sumwalt III, of South Carolina, to be a Member of the National Transportation Safety Board

- Nomination of Derek Kan, of California, to be Under Secretary of Transportation for Policy

For more information on transportation issues you may [email](#) or call Michael Kans at 202-659-8201. Henry Homans and Martha Bradley contributed to this section.

TECHNOLOGY

Senate Hearing On Cyber Regulation

Key Points:

- *The Senate Homeland Committee examines the state of cyber regulation*

On June 21, the Senate Homeland and Governmental Affairs Committee held a [hearing](#) entitled “Cybersecurity Regulation Harmonization.” Topics discussed included, but were not limited to: (1) Cyber Policy; (2) Overregulation and Inefficiencies; (3) and Russian Cyber Activity.

Chairman Ron Johnson (R-WI) stated that cybersecurity is an enormous threat to national security. He noted his interest in examining the problem and discovering solutions. He asserted that cybersecurity is a top priority and the sector is overregulated. He claimed that 42 percent of research time undertaken by universities is spent complying with federal regulations. He argued that all areas of government need to work toward consolidating and streamlining cyber defense.

Ranking Member Claire McCaskill (D-MO) stressed that while the ultimate goal is improving defense, industry spends too much time sorting through complicated regulations. She said this wasted time could be spent toward improving security systems and services. She supported centralizing cyber

policy across the federal government. She added that significant strides have been made by the implementation of the Department of Homeland Security’s (DHS) National Cybersecurity and Communications Integration Center (NCCIC). She expressed support for the creation of a framework by the National Institute of Standards and Technology (NIST). She noted that Congress passed the “Cybersecurity Information Sharing Act of 2015” (P.L. 114-113) which provides liability protection. She asserted that the Department of Health and Human Services (HHS) has decided that NCCIC has limitations. She noted that the HHS created the Health Cybersecurity and Communications Integration Center (HCCIC) as a result. She emphasized that this lack of uniformity is the primary issue of the current hearing. She doubted the utility of this new entity. She said every entity does not need its own cybersecurity policy. She wondered if this new entity was necessary.

BITS/Financial Services Roundtable President Christopher Feeney stated that BITS represents 100 of the leading financial firms in the U.S. He said cybersecurity is at the top of the agenda for every CEO. He stated that the financial sector is one of the most heavily regulated industries in the country. He said financial firms need to establish strong collaborative relationships with regulators. He noted that 60 to 80 percent of cyber issuances can be considered across all regulators. He argued that with a lack of common language, each company addresses the same cyber issues with different frameworks. He said 46 regulations have been put in place for the financial sector and argued that this is counterproductive. He observed that cyber security professionals are burdened by overregulation. He supported the use of the National Institute of Standards and Technology’s (NIST) “Framework for Improving Critical Infrastructure

Cybersecurity” (Framework). He asked Congress to pause any additional regulations.

Information Technology Industry Council President and CEO Dean Garfield stated that the issue of cybersecurity is essential. He stated that he wanted to emphasize three things: (1) the definition of the problem; (2) what is being done to solve it; and (3) identifying gaps where Congress can be helpful. He said the problem is balancing the freedom of the internet while protecting against cyber insecurity. He asserted that adding further regulations would be a “colossal mistake.” He expressed support for working with public-private partnerships. He encouraged the use of best practices in cybersecurity. He said small businesses may need help in the future. He observed that there is a lack of uniformity, citing three Executive Orders focused on cybersecurity in the last five years. He recommended that Congress should use its oversight to enforce compliance with the NIST Framework. He said that DHS needs to streamline its process in enforcing cybersecurity. He said redundancies need to be limited in order to move forward.

NIST Releases Guidance Documents

Key Points:

- *The federal agency that determines the technical side of information security releases three documents to reshape some components of these policies*

This week, NIST released two Special Publications (SP) and an NIST Interagency Report (NISTIR) that will influence how federal agencies (and many contractors) secure federal information and systems:

- [Special Publication 800-12 Revision 1](#), An Introduction to Information Security. Information security is a constantly growing and evolving

science. This revision, while looking visibly different than the original, still follows the direction established when SP 800-12 was initially published. This publication serves as a starting-point for those new to information security as well as those unfamiliar with NIST information security publications and guidelines. The intent of this special publication is to provide a high-level overview of information security principles, introduce related concepts, and also to broadly discuss the security control families defined in NIST SP 800-53, Security and Privacy Controls for Systems and Organizations.

- [Special Publication \(SP\) 800-63-3: Digital Identity Guidelines \(4 parts\): SP 800-63-3, and SP 800-63-3 A-C](#) - those links provided below). After more than a year of work and tremendous support from industry stakeholders; contributors submitted 1400+ comments for review, and the web version of the publication drew 74,000+ unique visitors; NIST has released a suite of documents covering digital identity from initial risk assessment to deployment of federated identity solutions. Gone are the days of levels of assurance, replaced by more assurance parts designed to be more flexible. The SP suite has also been reorganized. SP 800-63-3 is the mothership-the starting point for all things digital identity and risk with [SP 800-63A](#), [800-63B](#), and [800-63C](#) covering the various components of a digital identity system.
- [NIST Interagency Report \(NISTIR\) 8011](#), Automation Support for Security Control Assessments, Volumes 1 and 2. This NISTIR represents a joint effort between NIST and the Department of

Homeland Security to provide an operational approach for automating security control assessments in order to facilitate information security continuous monitoring (ISCM), ongoing assessment, and ongoing security authorizations in a way that is consistent with the NIST Risk Management Framework overall and the guidance in NIST SPs 800-53 and 800-53A in particular.

Upcoming Hearings and Events

June 27

FISA Reauthorization: The Senate Judiciary Committee will hold a [hearing](#) titled “The FISA Amendments Act: Reauthorizing America’s Vital National Security Authority and Protecting Privacy and Civil Liberties.”

For more information on technology issues you may [email](#) or call Michael Kans at 202-659-8201 Jackson McLendon contributed to this section.

This Week in Congress was written by Ryan Schnepf.