



Tiber Creek Group SPRING OUTLOOK

APRIL 2023

Spring greetings from Washington.

First, a reminder of the reported pledges Speaker Kevin McCarthy (R-CA) made in order to secure the speakership in January: changes to the appropriations process, use of the debt ceiling negotiations to cut spending, prominent committee assignments for Freedom Caucus Members, and the right of one Member to force a “vacate the chair” vote against a sitting Speaker.

The early days of uncertainty over the Speakership may have delayed committee organizing, but the House of Representatives made up for delays in the subsequent weeks and months with hearings, mark-ups, and plenty of floor activity.

The biggest accomplishment for House Republicans thus far has been the passage of H.R. 1, the Lower Energy Costs Act, the final vote prior to the two-week Congressional recess. Four Democrats voted for the bill and one Republican voted against. While the Biden Administration issued a veto threat on H.R. 1, passage of the bill is considered the first step in a bipartisan negotiation that could produce a scaled-back energy bill, potentially including permitting reform as well as other items the bill addressed.

Additionally, House Republicans made active use of the [Congressional Review Act \(CRA\)](#) process to challenge Biden Administration rulemakings. This effort included passage of a resolution to overturn the Waters of the United States (WOTUS) rule, approval of a measure to terminate the COVID-19 national emergency order, and disapproving of the Department of Labor’s rule allowing fiduciaries to take environmental, social, and governance (ESG) factors into consideration when choosing retirement investments. House Republicans also initiated a bill to overturn the DC Criminal Code Act of 2022, which became the first bill signed into law by President Biden this Congress (Public Law 118-1) after passing the Senate 81-14.

In the Senate, most floor activity has centered around non-controversial nominations given the absence of Senators Dianne Feinstein (D-CA) and John Fetterman (D-PA), which left Democrats without a functioning majority during several weeks of the first quarter. That said, the Senate has been able to process bipartisan legislation, including the repeal of the 2002 Authorized Use of Military Force (AUMF) resolution from the Iraq War and the previously mentioned resolutions to overturn the COVID-19 emergency order, the WOTUS rule, the crime bill passed by the DC City Council, and the Department of Labor’s ESG rule. Senate committees have also held multiple hearings as part of the annual

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budget and appropriations process, in addition to a number of hearings focused on the banking, healthcare, energy, and climate sectors, among others. Hearings with Federal Reserve (“Fed”) Chairman Jerome Powell focused on inflation and monetary policy. Hearings with the Fed, the Federal Deposit Insurance Corporation (FDIC), and Treasury officials on the failures of Silicon Valley Bank (SVB) and Signature Bank (“Signature”) have been among the most high-profile of the quarter.

Both chambers will return on Monday, April 17th, with the House expected to vote on legislation on Title IX and to override President Biden’s veto of the CRA legislation that overturned the WOTUS rule, among other things. This activity is expected to precede legislation dealing with the debt ceiling later in the work period. When the Senate reconvenes, it will take up the nominations of Radha Plumb to be Deputy Under Secretary of Defense and Amy Solomon to be Assistant Attorney General, and begin consideration of the Fire Grants and Safety Act.

The analysis that follows highlight the most important items ahead for the spring.

OUTLOOK FOR APPROPRIATIONS

Process:

Following the release of President Biden’s FY 24 budget, both the House and Senate Appropriations Committees set short deadlines for member request submissions. Both chambers were aligned in quickly signaling a commitment on both sides of the aisle to move through the process expeditiously.

House Budget role:

House Budget Committee Chairman Jodey Arrington (R-TX) has signaled his committee will produce a budget, but Speaker McCarthy quickly pushed back on that notion. The political realities of producing a budget are increasingly and acutely treacherous, and appropriators are not going to wait for an agreement on topline to begin the FY 24 bill construction process. House appropriators are likely to ‘deem’ the sub-allocations at FY 22 levels as placeholders in case a larger agreement on the topline allocation ever occurs.

Debt limit:

While GOP leadership attempts to distinguish the debt limit conversations from the budget, spending is one of the only chips with which they can negotiate to resolve the current debt limit standoff with the White House.

MARK YOUR CALENDARS

End of April:

House Appropriations Committee wraps up hearings.

Mid to late May:

House Appropriations begins mark-ups.

Late May/early June:

Senate appropriators wrap up hearings and begin marking up bills. For the first time in three years, Senate appropriators have committed to marking up all 12 of their appropriations bills (which is now possible because the committee is no longer split 50/50).

September 30th:

End of fiscal year. We can likely expect to have at least one short-term continuing resolution (CR) by this date.

2023

February

March

FAQs ON THE DEBT LIMIT

The most pressing
and vexing issue in
Congress this year



FAQs ON THE DEBT LIMIT

What is the debt limit?

The maximum amount of money the federal government can borrow to meet its current spending obligations—for example, whatever Congress has already authorized for the military, Social Security and Medicare payments, and interest on the debt.

Why is this so tricky?

Congress set the limit, it is about to be breached, and it needs to be increased. Democrats want a clean debt limit increase. Republicans want a deal to cut government spending. Moderates want to find a way to thread the needle to avoid default.

When will the debt limit be breached?

Analysts project sometime between July and September 2023—so Congress likely will act before leaving for August Recess.

So, what's actually going to happen this year?

It is highly likely any deal will come only after several failed votes, ramped-up political fighting, and warning shots from the credit rating agencies. Expect this brinkmanship to lead to a punt, a deal, or a clean debt limit increase:

- **Short-term debt limit punt.** Under this scenario, Congress will pass a short-term debt limit patch that lines up the debt limit breach with the end of the fiscal year on September 30th. Congress would then need to negotiate a spending deal and a debt limit deal or face a “fiscal cliff” of debt default and shuttering the federal government.
- **A bipartisan deal.** Republicans are pushing for the debt limit to be coupled with policy reforms, including statutory budget caps for the next two to three fiscal years at levels lower than FY 23, reclaiming unspent COVID-19 funds, strengthening work requirements for certain federal benefit programs, enacting policies to lower energy costs, and funding border security efforts. A group of moderate members are quietly discussing what the parameters of a deal could look like. Negotiations on a debt limit deal would likely be lengthy and complicated.
- **Clean debt limit increase.** If the politics of the debt limit become too toxic for Republicans, a sufficient number of moderates could cross party lines to support a clean debt limit increase.

What if Congress doesn't reach a deal?

In this scenario, which we view as highly unlikely but possible, Congress and the Biden Administration fail to reach a deal for a prolonged period of time. According to analysts at Moody's, “the blow to the economy would be cataclysmic.”

Are there any other options to prevent default?

Some Republicans have offered creative solutions to the debt limit, but Democrats call them risky gimmicks. The most notable is the Default Prevention Act reported



out by the Ways and Means Committee. This legislation would prioritize interest and principle on debt held by the public, Social Security and Medicare benefits, veterans programs, and defense spending once the debt limit has been reached to avoid default and ensure the continued operation of key programs. Another idea would be authorizing Treasury to issue “premium bonds,” which would sell debt at more than face value. While it’s possible Congress could try prioritization or premium bonds as a last-ditch effort to avoid a prolonged default, Congress and the President ultimately have to reach a debt limit agreement. Creative, untested solutions may help avoid catastrophe in the short term but would still carry substantial risk to the U.S. economy.

8 FACTS ON THE FARM BILL

- 1 Expires:** September 30th
- 2 What to expect:** Congress typically renews farm bills every five years but this year—with a divided Congress ahead of a presidential election—reauthorization could resemble the extension of the 2008 farm bill, which technically expired but had several provisions extended into 2013 and was not fully reauthorized until 2014.
- 3 Perennial issues:** crop insurance, conservation programs, international trade, rural broadband access, and support for beginning and young farmers.
- 4 Sticking points:** nutrition assistance, including stricter work requirements for SNAP eligibility; industry consolidation, particularly with respect to livestock; food inflation; climate-smart and sustainable practices; and foreign ownership of U.S. farmland, especially by China.
- 5 Hearings continue on several topics:** As House and Senate lawmakers each write their bills, hearings continue on such issues as right to repair, the Commodity Futures Trading Commission’s (CFTC) role in regulating digital assets, biofuels, emergency and disaster assistance, research funding, and investments in precision agriculture.
- 6 In the House:** The House Agriculture Committee has held five hearings and several listening sessions. Chairman GT Thompson (R-PA) has indicated he would like the House to pass legislation by the August recess.
- 7 In the Senate:** The Senate Agriculture Committee has held seven hearings. Chair Debbie Stabenow (D-MI) announced her retirement, making this reauthorization perhaps her legacy legislation.
- 8 Possible use as a vehicle:** Given the must-pass nature of any farm bill, some in Congress are looking to it as a potential vehicle for a tax title. While the likelihood of that seems low, it is worth watching.



SPOTLIGHT ON CHINA

The single issue that transcends partisan lines

Why it's bipartisan: Members of both parties, in both chambers, are concerned about the economic and foreign policy challenges posed by the Chinese Communist Party (CCP). Keep an eye on the Select Committee on the Chinese Communist Party: This House committee has held two hearings, with more expected in the upcoming work period. While the committee does not have legislative power, its work will likely inform legislative efforts with respect to China.

Other committees and efforts: Legislation addressing a wide spectrum of topics related to China has been introduced in both the House and Senate. Committees in both chambers have held hearings on a variety of topics focused on China, with more to come.

Focus on Taiwan: Members have made a point of highlighting the U.S. relationship with Taiwan, including engaging in high-profile meetings with Taiwanese leaders, despite warnings against such meetings by Chinese leadership.

What to expect in legislation: During the next work period, expect hearings on several topics. There is particular interest in Chinese attempts to spy on U.S. military and economic assets. Bills will address issues such as Chinese purchases of U.S. agricultural assets and real estate, and banning technology with ties to the CCP.

Ukraine: Should China overtly supply weapons to Russia for use in Ukraine, it is very likely Congress would act more aggressively toward China.

At the White House: We anticipate the Biden Administration will issue an executive order addressing outbound U.S. investments in foreign technology, specifically related to semiconductors and related supply chains.

[Click here to view our China tracker as of April 12.](#)

OVERSIGHT AND INVESTIGATIONS UPDATE

Top 9 House Republican investigations:

- U.S. Department of Homeland Security and immigration issues at the U.S.-Mexico border
- Global competition and the role of China
- Origins of COVID-19 and the federal response
- The Internal Revenue Service (IRS)
- Implementation of the Inflation Reduction Act (IRA)
- Biden family business dealings
- Big Tech
- Pharmaceutical benefit managers (PBMs)
- Broader consolidation in the health system

Most of the highly politicized investigations of the Biden Administration are led by Chairman of the Oversight and Accountability Committee James Comer (R-KY) and Chairman of the Judiciary Committee Jim Jordan (R-OH).

In response to demands from conservative members, the House voted, along party lines, to establish the Select Committee on the Weaponization of the Federal Government to investigate alleged bias in the federal government against conservatives. This Judiciary subcommittee is also chaired by Rep. Jordan.

Oversight of the Biden Administration was a key platform for House Republicans in the midterm elections. While the House has issued subpoenas, requested documents, issued reports, and held hearings with Biden Administration officials, ultimately any policies derived from oversight investigations will need broad bipartisan and bicameral support. With negotiations around federal spending and the debt limit hanging over Congress, it remains to be seen what impact, if any, these investigations will have.

Non-partisan oversight: In January, the House voted, with broad bipartisan support, to establish the CCP Committee. CCP Committee Chairman Mike Gallagher (R-WI) and Ranking Member Raja Krishnamoorthi (D-IL) aim to build consensus on the threat posed by the CCP and develop a plan of action for the U.S. Other areas in which Republicans and Democrats may work together include: investigations into baby formula shortages; PBMs; Big Tech and data privacy; the train derailment in East Palestine, OH; and the collapse of SVB.

5 NEED-TO-KNOWS ON TECH AND ANTITRUST

Technology and antitrust issues continue to be hot topics on Capitol Hill and in the Administration. Congress has held a number of hearings on Section 230, TikTok, artificial intelligence (AI), and privacy. As with most other issues faced by this Congress, the legislative process has been slow.

- 1 What's happening in antitrust:** The Senate continues to work on a bipartisan basis on competition-related issues. Senators Mike Lee (R-UT) and Amy Klobuchar (D-MN) introduced legislation to address "ad-tech" competition. Two impending bills are the Klobuchar-Grassley self-preferencing bill and the Blumenthal-Blackburn app store bill. The Senate antitrust hearing on Ticketmaster made clear there is broad bipartisan support for finding ways to promote competition in the ticketing space. The flipping of the House, on the other hand, has meant a sharp decrease in the focus on antitrust issues. The Federal Trade Commission (FTC) and Department of Justice (DOJ) continue to move forward with their antitrust enforcement efforts.
- 2 What's happening in privacy:** The House Energy and Commerce Committee continues to signal strong bipartisan interest in moving comprehensive privacy legislation, similar to what the committee reported out last Congress. The upper chamber, however, has shown no real interest in moving in this direction. Rather, the Senate Commerce Committee likely will stay focused on children's privacy, as it did last Congress. For its part, the FTC has started a rulemaking process on privacy. However, because of limitations on how the FTC promulgates rules, this process will take years.
- 3 What's happening in AI:** AI has taken center stage as the main technology topic for 2023. A number of ideas for promoting and regulating AI have been proposed, but there has yet to be an appetite for serious legislation.

- 4 What's happening with the Foreign Intelligence Surveillance Act (FISA):** In the background of the discussion and debate on technology is the impending expiration of the FISA Section 702 foreign surveillance program at the end of the year. Many in the intelligence community hope Congress can quietly come together to update and reauthorize Section 702.
- 5 What's happening on Section 230:** The Supreme Court's pending decisions on two significant Section 230-related cases also loom large. Given justices' skepticism about making significant changes to Sec. 230, it appears the Court likely will not make any significant alterations to the liability protections afforded by Sec. 230—at least for this case. At the same time, the technology sector is bracing for the likelihood of some changes by the Court.

FINANCIAL SERVICES UPDATE

Before SVB

In the House: House Financial Services Committee (HFSC) Chairman Patrick McHenry (R-NC) began implementing his agenda in the first quarter—marking up a data privacy bill; working behind the scenes on digital assets and capital formation; and conducting a number of oversight hearings and letters, [particularly directed at the Securities and Exchange Commission \(SEC\)](#).

In the Senate: Senate Banking Committee Chairman Sherrod Brown (D-OH) began the year with a number of hearings on housing policy, his longstanding priority.

SVB Fails

On March 10th, SVB failed after depositors withdrew a total of \$42 billion in a matter of hours the previous day, causing it to be taken over by regulators.

Signature Bank failed shortly after, and First Republic, a third mid-size bank, came close to failing but stabilized thanks, in part, to several large financial institutions directing tens of billions of dollars into the bank.

The result was a shock to the banking system with ripples extending across the broader economy.



After SVB

Reports: Congress is working on [a number of reports](#) to determine what happened at these banks and to dissect the likely causes—believed to be a combination of bad risk management and a failure on the part of the regulators to follow through on repeated warnings. These reports are expected to outline a range of policy options and recommendations, which could inform legislative debate.

Hearings: In late March, the HFSC and Senate Banking Committee held high-profile hearings featuring witnesses from the Fed, FDIC, and Treasury. Additional hearings—potentially with bank executives—are expected in the coming weeks.

Legislation: House and Senate members of both parties have already introduced multiple bills related to the bank failures. These proposals include increasing the limit on deposit insurance, giving regulators more authority to claw back executive compensation and bonuses, and repealing [S. 2155](#), which increased the asset thresholds for banks subject to more stringent stress testing, capital requirements, and other regulations. As things currently stand, it seems more likely regulators will take action on capital and liquidity requirements, for example, than for bipartisan legislation to be enacted.

Other issues

In the House:

HFSC continues to work on a capital formation package, a bill to create a regulatory framework for digital assets, and a stablecoin bill with a markup expected on this set of issues the last week of April. The committee will resume its robust oversight agenda and will move to the post-markup phase in the data privacy process. The committee has also announced Securities and Exchange Commission (SEC) Chair Gary Gensler will testify on April 18th, presenting the first opportunity for members of the House Financial Services Committee to question Chair Gensler on issues ranging from climate risk disclosure to cryptocurrency, in addition to other SEC rulemakings.

In the Senate:

Senate Banking also will work on a cryptocurrency regulatory regime and is expected to conduct oversight of banks, hold consumer protection-focused hearings in defense of the Consumer Financial Protection Bureau (CFPB) and continue to weigh climate risks to the financial sector.

The two committees have very different agendas with Senate Banking presenting a greater risk to stakeholders in the financial services sector.

SENATE BANKING COMMITTEE'S LIKELY UPCOMING HEARINGS:

1. Pending nominations for the Department of Housing and Urban Development, Treasury's Office of Financial Research, and Jared Bernstein to chair Council of Economic Advisors
2. Two to three SVB-related hearings—likely before end of May; one will focus on CEO accountability
3. Potential work on bipartisan housing bills
4. Likely a hearing on China—topic not set
5. Potential hearing on the Secure and Fair Enforcement (SAFE) Banking Act

5 NEED-TO-KNOWS ON CYBERSECURITY

- 1 The Administration has created a new national strategy:** Last month the Biden Administration released its [National Cybersecurity Strategy](#)—the first national cyber strategy in five years. The most important piece of the new strategy is its call to shift or “rebalance” the responsibility to defend cyberspace away from individuals, small businesses, and local governments to the major owners and operators of the systems in cyberspace that hold our data and make our society function. This requires the Administration to work with Congress and the private sector to develop legislation establishing liability for software producers and providers. Congress will seek answers to implementation of the strategy in the coming weeks and months.
- 2 Cyber legislation is moving:** The Senate Homeland Security Committee has successfully moved two pieces of legislation focused on utilizing the Cybersecurity and Infrastructure Security Agency’s (CISA) risk management role to conduct evaluations on open-source software and assess risks to critical infrastructure. In the House, we have seen several bills pass favorably out of committees for the full chamber to consider. Congress will continue to focus on general oversight, but with a specific emphasis on the water, healthcare, and transportation sectors. It is expected there will be cyber provisions included in the Federal Aviation Administration (FAA) Reauthorization bill and the upcoming farm bill.
- 3 Cyber workforce is a top priority for Congress:** We expect several hearings on this issue with a particular focus on closing the gap in the federal workforce.
- 4 Agencies are expected to act on incident reporting rules:** We will focus on two potential reporting rules: incident reporting requirements from the SEC and CISA. The SEC continues work on a proposal to require publicly traded companies to disclose cyber incidents and report on the roles of management and the board of directors. A final rule is scheduled for release in April, but the date is subject to change as the Commission received over 170 comments. Additionally, CISA continues work on a notice of proposed rulemaking (NPRM) on incident reporting for critical infrastructure owners and operators. Release of the NPRM is expected in the first quarter of 2024. The agency is in the process of reviewing comments from its first round of requests for information and several groups are urging the agency to provide more details on its plans ahead of the NPRM going out for public comment. The Federal Communications Commission (FCC) is also considering instituting an incident reporting requirement for emergency alert system participants.
- 5 More cyber regulations are coming:** Regulations for the communications, IT, pipeline, rail, aviation, and water sectors are expected in 2023 from various departments and agencies. Some have already been published and we would be happy to provide further information should you desire it.

ENERGY UPDATE



ENERGY UPDATE

Permitting reform is the top issue

- **House action:** The House closed out the last work period by passing H.R. 1, the Lower Energy Costs Act. Permitting reform is the central focus of the legislation, which passed on a bipartisan basis, with four Democrats voting for the bill.
- **Senate action:** The bill has been declared “dead on arrival” by Senate Majority Leader Chuck Schumer (D-NY). Prior to passage, there had been bicameral discussions on the legislation, but Senate Democrats are largely opposed to legislation that would benefit traditional fossil energy sources.
- **Our take:** There may be room for compromise—a bill that bolsters transmission and renewable energy projects.
- **Next steps:**
 - Chairman Tom Carper (D-DE) of the Senate Environment and Public Works Committee (EPW) and Chairman Joe Manchin (D-WV) of the Senate Energy and Natural Resources Committee (ENR) are planning to hold hearings on permitting as soon as the next work period.
 - Senate EPW Ranking Member Shelley Moore Capito (R-WV) and ENR Ranking Member John Barrasso (R-WY) are collaborating on a permitting reform proposal they intend to release, along with an op-ed, in the coming weeks.
 - The White House has started to engage with Senate Democrats on the issue, directing agencies to develop legislative ideas. We anticipate efforts to move permitting and transmission legislation will continue during the upcoming work period.
 - It is unclear if the House would accept a Senate bipartisan compromise, assuming one can be reached.

Quick implementation update: The Biden Administration continues to implement the energy and climate provisions of the Infrastructure Investment and Jobs Act (IIJA) and the IRA. The Treasury Department has started releasing guidance on various tax provisions, and we expect it will continue to do so in the next congressional work period.

[Click here to view our updated IRA Funding Tracker updated as of April 7.](#)

[Click here to view our updated IRA Guidance Cheat Sheet.](#)

5 THINGS TO EXPECT IN HEALTH CARE

- 1 **Reauthorizations:** Congress will continue its work to reauthorize programs expiring on September 30th, including the Pandemic and All-Hazards Preparedness Act (PAHPA), Substance Use-Disorder Prevention that Promotes Opioid Recovery and Treatment (SUPPORT) for Patients and Communities Act, the Community Health Center Program, and the Animal Drug User Fee Act (ADUFA), among others.

Committees of jurisdiction have requested information from various stakeholders and are holding hearings to inform policymaking on these issues. In March, the Senate HELP Committee held a hearing on the reauthorization of the Community Health Center Fund.

Reps. Richard Hudson (R-NC) and Anna Eshoo (D-CA), members of the House Energy & Commerce Committee, as well as Senate HELP Committee Chairman Bernie Sanders (I-VT), Ranking Member Bill Cassidy (R-LA), Senator Mitt Romney (R-UT), and Senator Bob Casey (D-PA) released requests for information (RFI) related to their committees' work to reauthorize PAHPA.

The House Energy & Commerce Committee also began its work to reauthorize ADUFA with a recent hearing.

- 2 Preventing provider cuts:** Congress is working to prevent Medicaid Disproportionate Share Hospital (DSH) payment cuts and the expiring Alternative Payment Model (APM) bonus before September 30th. Preventing these cuts, along with the reauthorizations discussed above, will cost billions of dollars. As usual, we'll be keeping an eye on the payfors as much as the policy solutions.
- 3 Regulations:** With a divided Congress, the Biden Administration will continue to look to the regulatory space to advance health care priorities. The Administration will be even more focused on reproductive health care issues following the Texas and Washington state district court rulings regarding FDA's approval of mifepristone, and we may also see the Senate attempt to legislate in this area. The Department of Health and Human Services (HHS) will focus on preparing the sector for the end of COVID-19 Public Health Emergency flexibilities on May 11th, and Centers for Medicare and Medicaid Services (CMS) officials will continue engaging with state Medicaid programs on the redetermination process that began on April 1st. The Innovation Center at CMS also is expected to roll out primary care and total cost of care demonstrations in 2023. Pharmaceutical manufacturers will respond to CMS's initial guidance for drug price negotiations, which was released on March 15th. HHS also will continue to defend the Affordable Care Act (ACA) in the wake of the recent ruling that struck down certain preventive services requirements under the law, and amid calls to limit products like short term plans.
- 4 Prescription drug pricing reforms:** This continues to garner bipartisan congressional interest. The Senate Judiciary Committee favorably reported five bills from the Committee in February, which address issues related to pharmacy benefit managers (PBMs), patent thickets and product hopping, the Food and Drug Administration's (FDA) citizen petition process, and "pay-for-delay." Similarly, the Senate Commerce Committee also favorably reported a PBM transparency measure with bipartisan support. The Senate Finance Committee held a hearing to investigate PBMs' role in prescription drug supply chains. In April, the HELP Committee is expected to consider legislation in this space, including potential reforms to PBMs, generics, and biosimilars. Senate Majority Leader Schumer expressed interest in packaging some of these policies together for possible consideration on the Senate floor.

In the House, House Oversight & Accountability Committee Chairman James Comer (R-KY) launched an investigation into PBMs' tactics. At the same time, a bipartisan working group led by Rep. Buddy Carter (R-GA) is considering PBM policies related to transparency and spread pricing, among others.

- 5 Other issues:** Congress continues to grapple with health care workforce shortages, the unwinding of the COVID-19 public health emergency (PHE), and the ongoing mental health crisis. In a recent House Energy & Commerce Committee hearing, several members also expressed interest in site-neutral payment policies and stricter enforcement of price transparency requirements for hospitals and insurers. It remains to be seen if bipartisan deals on these issues are possible and may ultimately depend on the debt ceiling debate, which will dominate the congressional agenda as we approach summer.



WHAT'S HAPPENING IN TRADE

Administration update

- » Top United States Trade Representative priorities, according to the testimony of USTR Ambassador Katherine Tai before the House Ways and Means and Senate Finance Committees late last month:
 - Engaging with key trading partners and multilateral institutions
 - Advancing a “worker-centric” trade policy
 - Re-aligning the U.S.-China trade relationship
 - Promoting confidence in trade policy through enforcement
 - Promoting equitable, inclusive, and durable trade policy

- » The Administration will continue to focus on United States-Mexico-Canada Agreement (USMCA) enforcement, including utilization of the agreement’s Rapid Response Mechanism to address labor violations in Mexico, and ongoing disputes related to Mexico’s ban on genetically modified corn and Canada’s implementation of dairy tariff rate quotas (TRQs).

- » The Administration is expected to announce how it will address Section 301 tariffs on Chinese goods as part of USTR’s four-year statutory review—possibly as soon as May. The comment period for the review closed on January 17th.

- » The Biden Administration has made clear it will not pursue “traditional” free trade agreement negotiations and is not expected to ask Congress to renew Trade Promotion Authority (TPA)—which expired in July 2021—in the near term. Rather, USTR will continue to negotiate various trade “frameworks” this spring, including the third negotiating round of the Indo-Pacific Economic Framework for Prosperity (IPEF) in Singapore on May 8th-15th; the next meeting of the U.S.-EU Trade and Technology Council (TTC) in Sweden on May 30th-31st; potential discussions on the U.S.-Taiwan Initiative on 21st Century Trade; and the Americas Partnership for Economic Prosperity (APEP), a framework for regional cooperation with Latin America.

Congressional update

- » Congress is expected to conduct oversight of the Administration’s trade efforts. Members on both sides of the aisle have raised concerns regarding the Administration’s pursuit of trade “frameworks,” which they have argued circumvent Congress’ constitutional authority over trade and should be subject to congressional approval.

- » Members on both sides of the aisle have also raised concerns regarding the Administration’s critical minerals negotiations with the European Union and Japan. The Administration has indicated critical minerals agreements with the EU and Japan may qualify as “free trade agreements” to meet electric vehicle (EV) tax credit eligibility under the IRA, which requires critical minerals in a vehicle’s battery to be extracted, processed, or recycled in the U.S. or in a country with which the U.S. has a free trade agreement. Finance Chairman Ron Wyden (D-OR) and Ranking Member Mike Crapo (R-ID), as well as Ways and



Means Chairman Jason Smith (R-MO) and Ranking Member Richard Neal (D-MA) each released statements criticizing the recently announced U.S.-Japan critical minerals agreement and raised concerns regarding the level of transparency with which the agreement was negotiated.

- » The congressional trade agenda this spring will also include a CRA vote to overturn President Biden’s two-year moratorium on solar tariffs, oversight of Uyghur Forced Labor Prevention Act (UFLPA) implementation, and other China-related issues. The Senate Finance Committee is also expected to begin negotiations on a customs modernization package, aimed at enhancing Customs and Border Protection (CBP) data collection authorities and enforcement. In the event a customs package comes together, it could carry other trade-related items, such as reauthorizations of the Generalized System of Preferences (GSP), the Miscellaneous Tariff Bill (MTB), and Trade Adjustment Assistance (TAA), though it remains to be seen whether a bipartisan deal can be reached.

Thanks for reading our quarterly update. For more information on any of these issues, please don’t hesitate to contact any one of us.

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