

IN THIS ISSUE:

- 1 Change is in the air: Energy transition**
Page 01
- 2 Elections in Iran: Deal or no deal?**
Page 02
- 3 China: Biden scores an early victory in Europe**
Page 03
- 4 Earmarks return to Capitol Hill**
Page 04
- 5 The infrastructure debate: Spending is easy until the check comes**
Page 05

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Change is in the air: Energy transition

Much has been said and written about the aggressive first 100 days of the Biden administration. The dozens of executive orders and nearly \$2 trillion in federal spending did much to reveal the principles and policies that can be advanced under unified Democratic control. However, beyond the response to the pandemic, arguably no issue has received more immediate focus and energy than climate change.

On Earth Day, President Joe Biden fulfilled a campaign promise and announced a new Nationally Determined Contribution (NDC) under the Paris Accord to cut emissions by 50% to 52% before 2030.¹ To achieve that target, research shows that, among other steps, renewable power must quadruple; natural gas power plants must employ carbon capture, utilization, and storage (CCUS) technology; new buildings must be 100% electric; and electric vehicles (EVs) should make up 65% of new car sales by 2030. All of these transition steps will require a mixture of public and private capital if the NDC commitment is to be met. Further, Biden has made the American economy's transition away from fossil fuels a key component of his agenda, driving action across a myriad of government agencies and departments.

A short list of those who have taken, or plan to take, action to implement this energy transition includes traditional lead agencies such as the Department of Energy, the Department of the Interior, and the Environmental Protection Agency. But many also expect initiatives from the Departments of Agriculture, Defense, Transportation, and Housing and Urban Development, among others. These departments and others like the General

Services Administration (GSA) can use the power of procurement to drive cleaner energy and climate-driven Biden administration objectives.

Of particular interest to the financial services industry, and contained in Biden's "all-of-government approach," is the forthcoming work of the Securities and Exchange Commission (SEC). SEC Chair Gary Gensler has telegraphed that regulatory action requiring enhanced disclosure of climate risks by public companies will be near the top of his agenda, and the agency has already issued a request for information on an ESG Disclosure Rule. While the coming SEC action is presumed to be the centerpiece of the financial regulatory response to the calls for energy transition action, the Federal Reserve and the Financial Stability Oversight Council will also have a role to play as Treasury Secretary Janet Yellen calls climate risk an "existential threat" to our financial system.

But the impact of these potentially significant actions by the federal government pale in comparison to the change that Congress can deliver if it can successfully legislate in this area. The significance of potential congressional action is the durability of the policy implications. As we have witnessed over the previous six months, Biden has used countless executive orders and started the process of rolling back Trump-era energy and environmental policies. But despite this approach, it is legislation that can stand at least beyond his presidency and potentially for generations.

Consider the Affordable Care Act (ACA). The law has been challenged in courts for

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¹ Based off of a 2005 baseline.

over a decade and attacked via legislation by Republicans, but many aspects of the ACA still stand. As Republicans and Democrats in Congress appear to be in the final stages of bipartisan negotiations over an infrastructure package, which could carry significant energy transition policy reforms, the potential generational impact cannot be underestimated. Should a bipartisan agreement be reached, it is possible that legislation could address mass transit electrification and expansion, electric vehicle infrastructure improvements, and an upgrade of the electrical grid. That is, of course, unless

politics gets in the way and Democrats are forced to pursue a one-party approach.

While the Green New Deal and many aggressive climate initiatives would undoubtedly be featured in a Democrat-only infrastructure deal, the path for getting something to the president's desk is perilous with a House majority of four seats and a 50-50 Senate. Indeed, the sheer variety and number of executive actions issued thus far to address the energy transition reveal a skepticism that Congress will ultimately deliver on the change that Biden has demanded.

Elections in Iran: Deal or no deal?

Iranians went to the polls on June 18 and, as expected, elected the hardline head of Iran's Supreme Court, Ebrahim Raisi, as their next president. Raisi is thought by many observers to be in line to become the next Supreme Leader as he is an ally of Iran's current Leader, Ali Khamenei. With conservative clerics firmly in control in Tehran, where does this leave the Biden administration's efforts to revive the 2015 nuclear deal or Joint Comprehensive Plan of Action (JCPOA)?

There have been six rounds of talks in Vienna, although the US and Iran are not talking directly to each other. Instead, the Europeans are passing messages back and forth between the two sides. Accounts of progress on reviving the deal vary with the Iranians publicly saying important progress has been made while the Europeans and Americans have been largely silent. The Biden administration's hope is not only that Iran return to compliance with the JCPOA, but also that its government agrees to talks covering a wider range of issues including their ballistic missile program, support for non-state actors and terrorist organizations in the region, and the fate of Americans in Iranian prisons.

For their part, Iran is interested in broader sanctions relief from the US and international community but remains uninterested in discussions covering topics other than its nuclear program, as Raisi made clear just days after his election victory. The Iranians have also asked for a "guarantee" that if they enter a

revived JCPOA, future US administrations will be unable to withdraw from it as President Donald Trump did in 2018. The Biden administration cannot bind future administrations without presenting the agreement in the form of a treaty and getting 2/3 of the Senate to agree – an outcome no one thinks is possible. So the administration has been clear that it intends to follow the same path as President Barack Obama in making this an executive agreement and not subject to the approval of Congress.

Raisi assumes office in early August, so one theory holds that Iran would be agreeable to a deal before he formally becomes president. The thinking is that if there is an agreement and if sanctions are lifted, then Raisi will be able to claim credit. On the flip side, if a deal falls through or the Iranian economy doesn't rebound sufficiently, then he can blame the former president for the failure. The Biden administration has chosen to ignore who is president of Iran and focus on the fact that the current Supreme Leader is the same one who gave his blessing to the original deal in 2015. They are betting he does that again.

But there are skeptics in Washington, Jerusalem, and Riyadh who take Raisi at his word and do not believe that Iran will agree to a broader set of talks beyond the nuclear deal. The next few weeks will be telling as to whether Biden and his team can find a way to overcome what looks like insurmountable obstacles.

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China: Biden scores an early victory in Europe

Biden was in Europe in mid-June with one goal in mind: show that America is back and willing to lead on the international stage. The point of this exercise was to provide a counter to the narrative being advanced by the Chinese government: the west is in decline, China's economy and government are superior, and China should lead the way in international affairs in the 21st century. The recent G-7, EU, and NATO summits all responded by singling out China in their communiqués for human rights abuses in Xinjiang and Hong Kong, describing China as a security challenge for the western alliance and vowing to push back on predatory competition from China. In fact, with regard to NATO, not only is this the first time China has been mentioned in a summit communiqué, but the alliance has been tasked with writing a new "Strategic Concept" for NATO that would address the security challenges China presents.

But before the Biden team sings kumbaya, let's take a look at some issues involving China where the US and some of its European partners diverge. In France, President Emmanuel Macron continues to advocate for a European security posture that relies less on the United States. In particular, he is not interested in NATO focusing its attention on China, calling it a potential "distraction." In addition, China continues to be Germany's largest trading partner. Chancellor Angela Merkel has looked the other way on China issues when economic growth is involved. That could change with a new government coming later in the year, particularly if there is Green Party involvement, which could lead to Germany having a stronger voice on human rights issues.

One of the EU summit outcomes that the Biden administration has been touting is the establishment of the EU-US Trade and Technology Council. The point is to assert

western dominance over standard setting in new technologies, but both sides will have to overcome some distrust on these questions starting with the dispute over transatlantic data flows. The ceasefire in the Boeing/Airbus trade battle is a good starting point, but more work needs to be done. Biden's democracy summit later this year will be an opportunity to build on these earlier summits, but there is still some distance to travel if the democratic countries are to present a truly united and effective challenge to China.

Just before Biden departed for Europe in June, the Senate weighed in on the China debate by passing the United States Innovation and Competition Act. A mammoth bill, it authorizes \$110 billion for basic and advanced research in such areas as artificial intelligence, semiconductors, quantum computing, biotechnology, and advanced energy in an attempt to counter China's economic rise and develop a national security strategy to address the challenges posed by China. While the Senate passed the bill (68-32) in a rare show of bipartisan support, the path forward in the House is less clear. House Foreign Affairs Committee Chairman Gregory Meeks (D-New York) has introduced his own bill focused on what the US can do in the foreign policy arena to counter China. Other House committees are also working on China-focused legislation, but whether the House will assemble the work product of several committees into one large bill, as the Senate did, remains unclear.

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Earmarks return to Capitol Hill

A decade after Capitol Hill banned earmarks, Democrats in both chambers, joined by House Republicans, voted to revive the spending allocations in the current 117th Congress and rebrand the congressionally directed spending as “community project funding.” But it won’t be business as usual this time around – there are new guardrails designed to protect taxpayers such as a limit on lawmaker requests, online transparency, and an exclusion of for-profit companies.

Earmarks refer to language sought by individual lawmakers directing funds to specific projects or localities in their congressional districts or home states. Typically, the earmarked project would not always otherwise qualify for federal funding through formula or competitive agency grant awards. At the lawmaker’s request, a provision in a bill or committee report language is added setting a specific discretionary spending authority. Projects are expected to fill a clear and present need in the community and demonstrate significant constituent and local government support.

Earmark scandals led to the 10-year congressional moratorium. Critics of the much-maligned “pork-barrel spending” are adamant that the practice leads to waste and corruption. Past examples include Alaska’s Gravina Island Access Bridge, which received hundreds of millions of earmarked dollars in the 2000s before it was finally scrapped and dubbed the “bridge to nowhere.” And there was disgraced former Representative Duke Cunningham (R-California) who was convicted of taking bribes to steer funds to defense contractors.

Supporters of earmarks argue that elected lawmakers are better equipped than unelected agency bureaucrats to decide what local projects are important enough to receive federal assistance. By giving Congress latitude to exercise its power of the purse, earmarks help the historically dysfunctional annual appropriations process move forward and shore up support from rank-and-file members.

In late February, the House Appropriations Committees announced a set of reforms that build on existing House rules and prioritize accountability, transparency, and

strong community support. The committee will enforce a cap on overall funding at no more than 1% of discretionary spending, nearly \$14 billion based on fiscal year 2021. Each member is able to make a maximum of 10 requests, must post those requests online, and certify that neither they nor their family members have a financial interest in the projects requested. Additionally, earmarks are limited to state and local governments and nonprofits that carry out quasi-government functions, and there will be a mandatory audit conducted by the Government Accountability Office (GAO) on a sample of the funded projects, which will be reported to Congress. Similarly, the Senate Appropriations Committee, led by Democrats, will follow the existing requirements for congressional-directed spending, and has implemented the same reforms as the House with the exception of limiting the number of member requests. Senate Republicans, however, decided to keep their earmarks ban but installed a new, internal GOP rule that demands spending cuts as a condition for raising the debt ceiling. Neither the earmark ban nor the debt ceiling language is binding — and that means there is nothing to prevent individual senators from requesting earmarks or voting to raise the debt ceiling without corresponding cuts. A number of Senate Republicans already plan to propose earmarks, particularly top appropriators who oversee spending for a third of the federal budget.

The House Transportation & Infrastructure Committee’s surface transportation reauthorization bill will include the first earmarks on a transportation bill in 16 years. The bill contains a 133-page list of earmarked transportation projects and, of the 2,383 projects submitted by lawmakers, the committee accepted 1,473 at a price tag of \$5.7 billion. Of that, \$4 billion are for projects submitted by Democrats, with \$1.7 billion going to projects submitted by Republicans. The House passed its bill along party lines in early July, but there is a long way to go in the Senate with “pay-fors” remaining elusive.

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The first earmarks in 16 years are accepted on the surface transportation reauthorization bill
(in billions)



\$4



\$1.7

The infrastructure debate: Spending is easy until the check comes

Biden's Fiscal Year 2022 budget proposal encapsulated his big and bold campaign promises: reinvest in America – its roads and bridges and people, too. The 2022 budget put vision to paper, laying out in greater detail the president's plan for traditional hard infrastructure (American Jobs Plan – AJP) and soft or human infrastructure (American Families Plan – AFP). Both proposals call for increased federal spending at over \$4 trillion.

Presidential budgets typically receive praise from the president's party and criticism from the other side of the aisle,

but the lanes quickly converge into one: a joint depositing in the trash bin. This is largely because the budget release often coincides with the Treasury Department's "Green Book," a document that outlines the various financing and tax mechanisms that an administration will need to use to pay for presidential priorities. In other words, while the president's budget is aspirational, the Green Book is a map on how to pay for it, and Congress ultimately has the tough task of merging the two by passing authorizing legislation as well as determining the right "pay-fors."

Green Book Infrastructure Pay-Fors



American Jobs Plan Traditional Infrastructure

Democrats have proposed to pay for these policy objectives via business tax adjustments including, but not limited to, several of the following items:

- Raise the corporate income tax rate to 28%
- Double the Global Intangible Low-Taxed Income (GILTI)
- Repeal exemption from GILTI for foreign oil and gas extraction income
- Repeal deduction for foreign-derived intangible income
- Restrict deductions of excessive interest of members of financial reporting groups for disproportionate borrowing in the US
- Impose 15% minimum tax on book earnings of large corporations
- Provide tax incentives for locating jobs and business activities in the US and remove tax deductions for shipping jobs overseas



American Families Plan Human Infrastructure

Democrats have proposed to pay for many of these policy objectives via adjustments to the individual tax code, including:

- Reform taxations of capital income
 - Tax capital gains and qualified dividends for high-income earners at ordinary rates (37% for income over \$1 million for an individual, \$2 million for a couple, and additional up to \$500,000 for couple if primary residence is involved)
 - No tax levied for family farms and businesses if they stay in the family
 - Treat transfers of appreciated property by gift or on death as realization events (also known as ending step-up of basis)
 - Equalize rates on income from capital gains and dividends
 - This would apply retroactively to the date of announcement (Sec. Janet Yellen not sure what date this is)
- Increase marginal income tax rate to 39.6% for highest tax bracket
- Ensure that all pass-through business income of high-income taxpayers is subject to either the net investment income tax or Self-Employment Contributions Act (SECA) tax and apply SECA to the ordinary business income of high-income, nonpassive S corporation owners
- Generally tax as ordinary income a partner's share of income on an "investment services partnership interest" in an investment partnership, regardless of the character of the income at the partnership level, if the partner's taxable income exceeds \$400,000
- Repeal deferral of gain from like-kind exchanges
- Make permanent the excess business loss limitation on noncorporate taxpayers (effective for taxable years after Dec. 31, 2026)

Washington loves to spend money but shies away from paying for it.

Bipartisan infrastructure framework: Proposed financing sources for new investment

- Reduce the IRS tax gap
- Unemployment insurance program integrity
- Redirect unused unemployment insurance relief funds
- Repurpose unused relief funds from 2020 emergency relief legislation
- State and local investment in broadband infrastructure
- Allow states to sell or purchase unused toll credits for infrastructure
- Extend expiring customs user fees
- Reinstate Superfund fees for chemicals
- 5G spectrum auction proceeds
- Extend mandatory sequester
- Strategic Petroleum Reserve sale
- Public-private partnerships, private activity bonds, direct pay bonds, and asset recycling for infrastructure investment
- Macroeconomic impact of infrastructure investment

Source: The White House, June 2021

As a candidate, Biden campaigned on undoing a signature legislative victory of Trump's and congressional Republicans: the Tax Cuts and Jobs Act (TCJA), the first comprehensive tax reform since 1986. So it came as no surprise to see the Green Book contain many revisions and adjustments to TCJA to pay for AJP and AFP – a real possibility when Democrats took control of the Senate. Republicans passed TCJA via reconciliation (50-vote benchmark in the Senate) on a partisan basis with zero Democratic support. Now Democrats are in a similar position to utilize this budgetary tool to drive big tax policy and the long-sought policy goals contained in AJP and AFP.

Washington loves to spend money but shies away from paying for it. As the legendary former Senate Finance Committee Chairman Billy Long famously quipped, "Don't tax me, don't tax thee, tax that fella behind the tree." That famous quote is perhaps truer than ever as Washington wrestles with how to pay for the country's infrastructure needs. Despite passing tax reform and utilizing reconciliation to pass TCJA, the votes did not come easy for Republicans and Trump. Republicans agreed on lowering the corporate rate to put the country in a more competitive international position and updating the international parts of the tax code as well as lowering individual rates. Disagreement arose, however, around how companies and individuals were impacted by these changes. At the end of the day, members are unwilling to jeopardize their own constituents or companies and needed assurance in the bill that S Corps, partnerships, specific industries, and individuals in their states were not disadvantaged.

Will history forecast the future? Will local, parochial interests trump political party policy ambitions? More than likely, yes. We are already seeing some Democrats draw a line in the sand, demanding a repeal of the State and Local Tax deduction that was included in TCJA as their price of admission on an infrastructure vote.

This give and take on what is politically palatable is already visible as several ideas have been floated and dismissed on how to pay for these ambitious infrastructure proposals, but where they end up remains to be determined.

With bipartisan compromise signaled on a hard infrastructure policy framework, the slog begins on the pay-fors. Democrats will not increase taxes on families/individuals making less than \$400,000, and refuse to entertain a gas tax. Republicans have said no on any changes to TCJA. In the end, if there is a deal, a compromise will be somewhere in the middle. There will be continuous pressure to address energy infrastructure – and specifically clean energy provisions – within the tax code. Senate Finance Committee Chairman Ron Wyden (D-Oregon) will continue to drive his agenda to simplify and make the energy side of the tax code more tech neutral and less carbon friendly.

Pay-fors are hard to find, and whatever is not used for AJP very likely could be utilized for AFP; especially if Democrats and Republicans thread the needle on a bipartisan traditional infrastructure deal with agreed-on spending. That scenario would suggest that Democrats utilize many of their Green Book tax proposals for their human infrastructure proposals, which are less likely to draw bipartisan support and are most likely to be jammed into a reconciliation package.

While it feels like every week is infrastructure week in Washington, we are in the early stages of finding out who pays for these trillion-dollar ideas. Biden and House and Senate Democratic leadership have set ambitious timelines to pass infrastructure, but even if the process plays out in a similar, partisan fashion as TCJA, the proposed pay-fors and tax revisions that we see today will likely see many twists and turns before any bill hits Biden's desk.

Invesco US Government Affairs



Andy Blocker
Head of US Government Affairs

Andy Blocker serves as Head of US Government Affairs for Invesco. In this role, he drives Invesco's legislative and regulatory advocacy initiatives with policymakers, engages with clients and opinion leaders on public policy developments, and seeks to maximize the company's political footprint. Previously, Andy served as executive vice president of public policy and advocacy for the Securities Industry & Financial Markets Association, where he led a team

engaging lawmakers on international, federal and state issues impacting the financial services industry. Andy spent five years as managing director for the US Office of Public Policy for UBS. He also served as vice president of government relations for the New York Stock Exchange, as managing director of government and international affairs for American Airlines, and for the White House as special assistant to the president for legislative affairs.



Jennifer Flitton
Vice President of Federal Government Affairs

Jennifer Flitton is Vice President of Federal Government Affairs with the US Government Affairs team where she advocates on behalf of Invesco's policy initiatives with policymakers and regulators, and ensures the firm is an influential part of the Washington conversation. Jen joined Invesco from the Securities Industry and Financial Markets Association, where she led lobbying initiatives on behalf of the

asset management and broker dealer industries. Jen spent 16 years on Capitol Hill, last serving as the Deputy Chief of Staff and Legislative Director for Congressman Patrick McHenry, and as Congressman McHenry's designee to the House Financial Services Committee's Oversight and Investigations Subcommittee.

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