October 13, 2020

Below is our COVID-19 Update for October 13, 2020:

**Both the Senate and House are in recess.**

**Supreme Court of the United States Hearing – Day 2**

* The second day of Judge Amy Coney Barrett’s nomination hearing was the first opportunity for members of the Senate Judiciary Committee to question the nominee. Similar to yesterday, however, both sides largely focused on unsurprising topics.
  + Democrats focused on the Affordable Care Act (ACA) but again did not criticize Judge Barrett directly. A concern among Democrats is that if they go after the nominee herself, it could negatively influence voters so close to the election. Instead they are focusing on the effect repealing the ACA would have on everyday Americans.
  + Republicans again focused on Barrett’s personal background and judicial philosophy, seeking to highlight her qualifications and potentially baiting Democrats into criticizing her faith.
* Judge Barrett declined to directly answer her stance on key issues such as *Roe v. Wade* and ACA legitimacy.
  + Notably, Judge Barrett did say she is “not hostile” to the ACA.
  + Judge Barrett offered reassurance that she adheres to precedent.
    - Referencing the stare decisis principal, Judge Barrett pushed back on notions that she would overturn landmark legislation. However, she said she thought that *Roe v. Wade* was not super precedent.
  + Judge Barrett also stressed her desire to strictly adhere to judicial independence from political pressure.

**COVID-19 Relief**

* Senate Majority Leader Mitch McConnell (R-KY) announced that the Senate will make an additional attempt next week to pass a “targeted” relief package before the election. The bill will focus on replenishing the Paycheck Protection Program (PPP).
  + Though Democrats have repeatedly rejected this piecemeal strategy, Republicans are eager to demonstrate that they are still working to deliver relief and counter criticism that they should negotiate a deal – an issue that was raised in the Kentucky Senate debate last night. Leader McConnell said that the Senate would have time to consider both COVID-19 relief and the Supreme Court nomination before the election.
* House Speaker Nancy Pelosi (D-CA) and Treasury Secretary Steven Mnuchin continue to have conversations, but there is no indication that negotiations have yielded significant progress. Despite the Senate’s attempt to pass their targeted relief package mentioned above, Elevate believes that it remains unlikely that an additional COVID-19 relief package will be enacted before the election.

**Congress**

**General Congress**

* The House and Senate Appropriations and Armed Services Committees approved the bulk of a Pentagon request to shift $2B within the defense budget, which was submitted to Congress this past June. In the [final omnibus reprogramming document](https://comptroller.defense.gov/Portals/45/Documents/execution/reprogramming/fy2020/prior1415s/20-10_PA_Omnibus_2020_Final.pdf), the four committees approved $1.3B of a $2B reprogramming request made by the Pentagon earlier this year to fix spending issues and address emerging requirements.
  + Lawmakers also approved $42.1M of a $198M omnibus reprogramming request for military intelligence programs, which was submitted as part of the earlier transfer request.

**Senate**

* The Senate Commerce, Science and Transportation Committee is considering hearing dates for the nomination of Nathan Simington to fill the Republican Federal Communications Committee (FCC) seat that is now occupied by Commissioner Mike O’Rielly. Committee Republicans, especially Chairman Roger Wicker (R-MS), have faced pressure to advance the nomination before the end of the year.
  + An expedited nomination process is supported by Sen. John Thune (R-SD), though there may be resistance from other Republicans. Sen. Dan Sullivan (R-AK) has previously blocked FCC nominees over his longstanding frustrations with the FCC’s lack of support for telecommunications programs in rural areas.

**House**

* House Homeland Security Committee Chairman Bennie Thompson (D-MS) subpoenaed documents related to the Department of Homeland Security’s now-reversed decision to ban New Yorkers from Trusted Traveler programs and the “inaccurate or misleading information that the Administration provided to the Committee and Federal court” to support it.
  + As a reminder, during a committee hearing last month, Deputy Customs and Border Protection Commissioner Robert Perez said that his agency would provide documents requested by the committee but declined to provide a specific timeline.
  + Southern District of New York Judge Jesse Furman ruled that the federal decision to prohibit New Yorkers was “unlawful” and that it should be vacated to “ensure that it cannot be reinstated.” Furman also gave the state and federal governments a week to submit a joint letter on the possible need for additional remedies.

**Administration**

* President Trump signed an [Executive Order](https://www.whitehouse.gov/presidential-actions/executive-order-establishing-one-trillion-trees-interagency-council/) (EO) to support the Administration's role in the international One Trillion Trees Initiative. The EO creates an interagency council tasked with "developing, coordinating, and promoting" U.S. work on tree growth and conservation.
  + The One Trillion Trees Initiative is a global push to plant or conserve a trillion trees by 2030 to address climate, biodiversity, and other ecological needs.
* The White House recently issued a [proclamation](https://www.whitehouse.gov/presidential-actions/proclamation-facilitate-positive-adjustment-competition-imports-certain-crystalline-silicon-photovoltaic-cells/) setting the tariff on solar panels and cells at 18% starting in February, rather than allowing it to decrease to 15% as scheduled.
  + As a reminder, the tariff began at 30% in 2018 and is currently at 20%, as it was set to decrease 5% each year.
  + The proclamation also calls on the International Trade Commission to conduct another investigation to see if the tariffs are increasing domestic solar manufacturing.
* The Federal Aviation Administration (FAA) is expected to publish a notice in Wednesday’s Federal Register announcing October 15 as the deadline for airlines to submit summer 2021 schedules for five capacity-constrained airports.
  + These airports include Chicago O’Hare International Airport, JFK International Airport, Los Angeles International Airport, Newark Liberty International Airport, and San Francisco International Airport.
* The Transportation Security Administration (TSA) announced that the agency screened close 985,000 people on Sunday, the highest volume since the beginning of the COVID-19 pandemic.
* The Government Accountability Office (GAO) released a [report](https://linkprotect.cudasvc.com/url?a=https%3a%2f%2fwww.gao.gov%2fassets%2f720%2f710095.pdf&c=E,1,-ipKF70WPIgH9XHU549I5j-88AqdpTva8v6TmD_4BAmgag8bqSNlhYzT0glgmGoSAPu0FiIhX0T6UGluFJGe1knzkmdv5szNCGqO6VwUE4T69RLx7RY,&typo=1) stating that the FAA should provide additional cybersecurity oversight for commercial airplanes.
  + The GAO urged the FAA to identify cybersecurity-specific staffing and training needs for agency inspectors and develop guidance for testing of new airplane designs.
  + The FAA concurred with five of the six recommendations, disagreeing that it should consider revising its policies and procedures for periodic independent testing, saying that testing could potentially corrupt an airplane’s systems and there are already processes in place to identify and correct cybersecurity safety issues.
* The Administration’s “Operation Warp Speed,” which is aimed at fast-tracking development of a COVID-19 vaccine is investing $468M in an AstraZeneca antibody treatment for COVID-19. The investment will push the treatment through multiple late-stage trials and help manufacture up to 100,000 doses.
  + An Eli Lilly antibody treatment clinical trial and Johnson & Johnson vaccine trial have been paused. The Eli Lilly trial was paused amid an unnamed security concern, while the Johnson & Johnson trial was paused due to an unexplained illness in a participant.
* The Supreme Court ruled that the Administration could end the 2020 Census early after an emergency request from the Department of Justice. Lower courts had previously ruled that the Administration should continue counting through October 31.

**Other News**

* The New York Metropolitan Transportation Authority (MTA) is considering borrowing additional money as it continues to face revenue shortfalls due to the COVID-19 pandemic. The agency has permission to issue $10B in debt to cover revenue shortfalls and pay for costs due to the pandemic, but New York State Comptroller Tom DiNapoli said it will come at a “tremendous price to current and future system users.”
  + At a board meeting in September, the MTA board discussed potentially borrowing $2.9B from the Municipal Liquidity Facility, a Federal Reserve program thus far only used by MTA and the State of Illinois.
  + Though MTA’s struggles have often been the most publicized, transit agencies across the country continue to struggle and weigh a variety of measures to decrease revenue deficits amid the COVID-19 pandemic.
* Supreme Court Justice Clarence Thomas wrote that U.S. courts have expanded legal protections for internet companies beyond what Congress intended and suggested the Supreme Court should use a future ruling to rein them in, which would include considering Section 230.
  + Justice Thomas’ statement comes in response to the Supreme Court declining to take up a case between malware software purveyors Malwarebytes and Enigma Software Group. Enigma accused its rival of blocking internet users from downloading its products, but Malwarebytes contended it could block "objectionable" content under Section 230. A lower court determined that Section 230 did not shield companies from legal liability for blocking content for anticompetitive reasons.
* European Union (EU) Trade Chief Valdis Dombrovskis told the U.S. to remove the 15% tariff on Airbus aircraft and additional tariffs on more than $7B worth of EU goods or face higher duties on exports to Europe.
  + The World Trade Organization (WTO) ruled that the EU has the right to impose tariffs of $3.99B on U.S. goods in retaliation for American subsidies to Boeing, which the WTO has already established were illegal.
  + U.S. Trade Representative Robert Lighthizer warned the EU not to use its newly won power from the WTO to retaliate. Lighthizer argued the new WTO award was not valid because it was based on a business and occupancy tax break for Boeing that the Washington state legislature repealed earlier this year.
  + Both Lighthizer and Dombrovskis have expressed their interest in reaching a negotiated settlement, rather than adopting retaliatory tariffs.
* The International Energy Agency (IEA) released the [World Energy Outlook 2020](https://linkprotect.cudasvc.com/url?a=https%3a%2f%2fwww.iea.org%2freports%2fworld-energy-outlook-2020&c=E,1,Tdra-qgBB2E0kqS-RCz8Dt-zbeNGTe9HxkxigS7cE052e55OzAqXesII3Oe8_nPsByA8YkWMmYfejevud1e5huQEBQoy8rVToxbbQh47OIHXIA,,&typo=1). The Outlook found that:
  + COVID-19's dampening effect on global energy consumption will continue for two or more years.
  + Overall energy demand is set to drop by 5% in 2020, with energy-related CO2 emissions down 7% and energy investment off by 18%.
  + Coal demand will not return to pre-crisis levels. Instead its share of the 2040 global energy mix will fall below 20% for the first time since the Industrial Revolution.
  + Natural gas demand will grow significantly, mainly in Asia, while oil demand will flatten out in the 2030s.
  + Renewable energy will continue to gain market share, as renewables will meet 80% of global electricity demand growth over the next decade, overtaking coal by 2025 as the primary means of producing electricity.
* The Mineta Transportation Institute (MTI) released a [report](https://linkprotect.cudasvc.com/url?a=https%3a%2f%2ftransweb.sjsu.edu%2fsites%2fdefault%2ffiles%2f1939-Belcher-Transit-Industry-Cyber-Preparedness.pdf&c=E,1,TOWybl5_xTTZvAgowtm4hW0irSZNmJiBWmGzr7uwSJr36OjP2iSEVADyhHMtvn316SM8D6VaQB9F1ZzgH9BWRc8nwHTyfe-AVi9RanJAfYVxTw,,&typo=1) which found that at least 40% of transit agencies do not have a cybersecurity preparedness plan in place and less than 50% audit their cybersecurity programs annually. MTI also surveyed officials at 90 transit agencies and found that most reported feeling prepared for a cybersecurity threat, although many had not adequately prepared for such a threat.
  + MTI found that the agencies lack cyber crisis communications plans, cyber disaster recovery plans, and consistent maintenance of log data.
* In its October [World Economic Outlook](https://linkprotect.cudasvc.com/url?a=https%3a%2f%2fwww.imf.org%2fen%2fPublications%2fWEO%2fIssues%2f2020%2f09%2f30%2fworld-economic-outlook-october-2020&c=E,1,TukfPQIR8BONObIGhR731sK1LtjrUcHEPeTN2T-gdFlTeLlx-YKH_rdvXtyWhnCvQjeucmG15R7twpAH1K1KOza0Hf_arlwvYloH-oLmAfo0sWCBvK4VVVBn3EI,&typo=1), the International Monetary Fund (IMF) recommended that countries consider raising taxes on the wealthy to speed economic recovery from COVID-19. The IMF also encouraged governments to keep spending on initiatives that promote long-term growth, like “high-return infrastructure” that cuts down on fossil fuels, health care, and education.