

## **Senate Commerce Committee Nominee Questionnaire, 118th Congress**

Instructions for the nominees: The Senate Committee on Commerce, Science, and Transportation (the “Committee”) asks you to provide typed answers to each of the following questions. It is requested that the nominee type the question in full before each response. Do not leave any questions blank. Type “None” or “Not Applicable” if a question does not apply to the nominee. Begin each section (i.e., “A”, “B”, etc.) on a new sheet of paper. Electronically submit your completed questionnaire to the Committee in PDF format and ensure that sections A through E of the completed questionnaire are in a text searchable and that any hyperlinks can be clicked. Section F may be scanned for electronic submission and need not be searchable.

### **A. BIOGRAPHICAL INFORMATION AND QUALIFICATIONS**

1. Name (Include any former names or nicknames used):

Douglas (Doug) Dziak.

2. Position to which nominated:

Commissioner, U.S. Consumer Product Safety Commission.

3. Date of Nomination: March 30, 2023.

4. Address (List current place of residence and office addresses):

[REDACTED]

Office: 4330 East-West Hwy, Bethesda, MD 20814.

5. Date and Place of Birth: December 2, 1970, Lorain, Ohio.

6. Provide the name, position, and place of employment for your spouse (if married) and the names and ages of your children (including stepchildren and children by a previous marriage).

Leigh Anne Mosby, retired from federal service. We have no children.

7. List all college and graduate schools attended, whether or not you were granted a degree by the institution. Provide the name of the institution, the dates attended, the degree received, and the date of the degree.

<b>Institution</b>	<b>Dates Attended</b>	<b>Degrees Received</b>	<b>Dates of Degrees</b>
Ohio University	1989-1995	BA, Economics and English  MA, Economics	August 1993 BA  November 1995 MA
William & Mary Law School	1996-1999	JD	May 1999
Lorain County Community College	June-July 1992	N/A	N/A (Summer class)

8. List all post-undergraduate employment, including the job title, name of employer, and inclusive dates of employment, and highlight all management-level jobs held and any non-managerial jobs that relate to the position for which you are nominated.

U.S. Consumer Product Safety Commission (CPSC or Commission), Bethesda, MD, Office of Commissioner Peter A. Feldman, Chief Counsel, February 2021 to present. Advise CPSC Commissioner and work with other Commissioner offices and career staff to achieve the Commission’s safety mission.

U.S. Senate Committee on the Budget, Staff Director and General Counsel, February 2020 to February 2021. Managed Senate Budget Committee Majority and non-partisan front-office staff.

U.S. Senator Michael B. Enzi, Legislative Director, June 2018 to February 2020. Managed senior U.S. Senator’s staff, including legislative portfolios related to the Senate Health Education Labor & Pensions, Finance, Homeland Security and Governmental Affairs (HSGAC), and Small Business committees.

Holland & Knight LLP, Washington, D.C., Senior Counsel, March 2017 to June 2018. Government relations and regulatory law practice.

Nixon Peabody LLP, Washington, D.C., Counsel, March 2011 to March 2017.  
Government relations and regulatory law practice.

U.S. Senator George V. Voinovich, Legislative Director & Chief Counsel/HSGAC, Subcommittee on Oversight of Government Management, the Federal Workforce and the District of Columbia, General Counsel/Counsel (Senator Voinovich was the Chair and Ranking Member of the OGM subcommittee during my service), January 2006 to January 2011. As Legislative Director, I managed U.S. Senator's staff, including providing management over legislative portfolios related to Senate HSGAC, Environment and Public Works, and Appropriations committees.

Freshfields, Bruckhaus, Deringer LLP, Washington, D.C., Associate Attorney, October 2002 to January 2006.

Hunton and Williams LLP (now Hunton Andrews Kurth LLP), Washington, D.C., Associate Attorney, September 1999 to September 2002.

William & Mary Law School, Professors Alan J. Reese and Raj Bhala, Williamsburg, VA, Research Assistant, academic years of 1997 and 1998.

Arter & Hadden LLP, Cleveland, OH, Summer Associate, Summer 1998 (full-time job offer extended, but declined).

Ford's Colony Swim and Tennis Club, Williamsburg, VA, Lifeguard, Summer 1997.

Hale and Dorr LLP (now WilmerHale), Washington, D.C., Legal Assistant, Fall 1995 to Summer 1996. I performed legal and general research, prepared documents for filing, and assisted in the preparation of documents for the Hale and Dorr attorneys.

Cambridge Associates, Arlington, VA, Fall 1995. This was an entry level position in which I performed research and data analysis for client use.

Atlantic Pool Service, Arlington VA, part-time Lifeguard, Fall 1995 to Summer 1996.

Arlington County Parks and Recreation, Arlington, VA, part-time Swim Instructor, Fall 1995 to Spring 1996.

Ohio University Department of Economics, Athens, Ohio, Economics Instructor, August 1994 to June 1995. As part of my graduate student aid, I taught introductory economics courses at Ohio University branch campuses.

Ohio University Graduate Research Assistant, Professor Al Eckes, Athens, OH, Research Assistant, August 1993 to June 1994. As part of my graduate-student aid, I assisted Professor Eckes, a former Chair of the U.S. International Trade Commission, in researching his book regarding U.S. trade history.

Ohio University Aquatic Center, Athens, OH, estimated 1990 to 1994, Lifeguard and Swim Instructor.

City of Athens Ohio, Lifeguard and Swim Instructor, Summers of 1993, 1994, and 1995.

9. Attach a copy of your resume. See attached.
10. List any advisory, consultative, honorary, or other part-time service or positions with Federal, State, or local governments, other than those listed above after 18 years of age.

I served as a *pro bono* advisor to the William & Mary Law School's Lewis B. Puller Jr. Veterans Benefits Clinic from 2011 to 2018.

11. List all positions held as an officer, director, trustee, partner, proprietor, agent, representative, or consultant of any corporation, company, firm, partnership, or other business, enterprise, educational, or other institution.

I was a board member of the Dominion Greens Home Owners Association (DGHOA), Arlington, VA, until December of 2022. DGHOA is the homeowners' association for the community where I have lived since 2002.

I am currently a member and chairman of the board of the Windswept Ridge Property Owner's Association (WSRPOA). WSRPOA is a 30-member condominium community in Corolla, NC. I joined the board in October 2017.

12. Please list each membership you have had after 18 years of age or currently hold with any civic, social, charitable, educational, political, professional, fraternal, benevolent or religiously affiliated organization, private club, or other membership organization. (For this question, you do not have to list your religious affiliation or membership in a religious house of worship or institution.). Include dates of membership and any positions you have held with any organization. Please note whether any such club or organization restricts membership on the basis of sex, race, color, religion, national origin, age, or disability.

District of Columbia Bar, active, sworn in September 11, 2000.

State of Maryland Bar, inactive, sworn in December 14, 1999.

University Club of Washington D.C., 2011 to 2018. I served on the Club's finance and audit committees.

William & Mary Law School Association, Association Board Member, 2004 to 2010, general member 1999 to present.

The Currituck Club golf course in Corolla, NC. I joined in 2016 and remain a member.

I am a member of the DGHOA, Arlington, VA, where I have lived since 2002.

I am a member of the WSRPOA.

I am a member of the District of Columbia Bar Board on Professional Responsibility (BPR), as a Lawyer Alternative (LA) for hearing committees. I completed a 6-year term from 2015 to 2022, and the BPR selected me for another 6-year term in March 2023, <https://www.dcbbar.org/attorney-discipline/board-on-professional-responsibility>.

I was a member of the American Bar Association (ABA) over the course of my law firm employment. I was also a member of the ABA Antitrust subcommittee from 1999 to 2006.

Federalist Society, Public Sector Member, from March 2019 to September 2021. I was also a member during law school.

William & Mary Law School Republicans (Vice-President, 1997 to 1998).

William & Mary Environmental Law and Policy Review, Articles Editor, 1998 to 1999.

To my knowledge, none of the organizations that I have been a member has any policy of restricting membership on the basis of sex, race, color, religion, national origin, age, or disability.

13. Have you ever been a candidate for and/or held a public office (elected, non-elected, or appointed)? If so, indicate whether any campaign has any outstanding debt, the amount, and whether you are personally liable for that debt.

No.

14. List all memberships and offices held with and services rendered to, whether compensated or not, any political party or election committee within the past ten years. If you have held a paid position or served in a formal or official advisory position (whether compensated or not) in a political campaign within the past ten years, identify the particulars of the campaign, including the candidate, year of the campaign, and your title and responsibilities.

I served on the John Kasich for President DC Steering Committee in 2016. This committee was ceremonial in nature.

15. Itemize all political contributions to any individual, campaign organization, political party, political action committee, or similar entity of \$200 or more for the past ten years.

<b>Recipient</b>	<b>Date</b>	<b>Amount</b>
WENSTRUP FOR CONGRESS	1/18/13	\$250.00
FRIENDS OF DAVID SCHWEIKERT	2/5/13	\$250.00
VALUE IN ELECTING WOMEN POLITICAL ACTION COMMITTEE	2/27/13	\$250.00
CAPITO FOR WEST VIRGINIA	3/13/13	\$250.00
ALEXANDER FOR SENATE 2020 INC	3/20/13	\$250.00
FRIENDS OF DAVE JOYCE	3/29/13	\$250.00
CAPITO FOR WEST VIRGINIA	4/15/13	\$250.00
CAPITO FOR WEST VIRGINIA	5/13/13	\$250.00
CAPITO FOR WEST VIRGINIA	6/18/13	\$250.00
TIM SCOTT FOR SENATE	6/28/13	\$250.00
FRIENDS OF DAVID SCHWEIKERT	7/18/13	\$250.00

STIVERS FOR CONGRESS	7/30/13	\$500.00
ROBERT HURT FOR CONGRESS	8/7/13	\$250.00
TOM REED FOR CONGRESS	12/31/13	\$500.00
JOHNSON FOR CONGRESS	3/3/14	\$1,000.00
FRIENDS OF DAVE JOYCE	4/8/14	\$250.00
RENEE ELLMERS FOR CONGRESS COMMITTEE	6/30/14	\$250.00
DOLD FOR CONGRESS	9/15/14	\$500.00
DOLD FOR CONGRESS	10/1/14	\$250.00
FRIENDS OF PAT TOOMEY	3/1/16	\$250.00
FRIENDS OF TIBERI	2/13/17	\$500.00
HOLLAND & KNIGHT COMMITTEE FOR EFFECTIVE GOVERNMENT	7/7/17	\$76.92
VALUE IN ELECTING WOMEN POLITICAL ACTION COMMITTEE	7/10/17	\$250.00
HOLLAND & KNIGHT COMMITTEE FOR EFFECTIVE GOVERNMENT	7/21/17	\$76.92
HOLLAND & KNIGHT COMMITTEE FOR EFFECTIVE GOVERNMENT	8/4/17	\$76.92
HOLLAND & KNIGHT COMMITTEE FOR EFFECTIVE GOVERNMENT	8/18/17	\$76.92
HOLLAND & KNIGHT COMMITTEE FOR EFFECTIVE GOVERNMENT	9/1/17	\$76.92
HOLLAND & KNIGHT COMMITTEE FOR EFFECTIVE GOVERNMENT	9/15/17	\$76.92
HOLLAND & KNIGHT COMMITTEE FOR EFFECTIVE GOVERNMENT	9/29/17	\$76.92
HOLLAND & KNIGHT COMMITTEE FOR EFFECTIVE GOVERNMENT	10/13/17	\$76.92
HOLLAND & KNIGHT COMMITTEE FOR EFFECTIVE GOVERNMENT	10/27/17	\$76.92
HOLLAND & KNIGHT COMMITTEE FOR EFFECTIVE GOVERNMENT	11/10/17	\$76.92
HOLLAND & KNIGHT COMMITTEE FOR EFFECTIVE GOVERNMENT	11/24/17	\$76.92
HOLLAND & KNIGHT COMMITTEE FOR EFFECTIVE GOVERNMENT	12/8/17	\$76.92
HOLLAND & KNIGHT COMMITTEE FOR EFFECTIVE GOVERNMENT	12/22/17	\$76.92
HOLLAND & KNIGHT COMMITTEE FOR EFFECTIVE GOVERNMENT	2/2/18	\$76.92
HOLLAND & KNIGHT COMMITTEE FOR EFFECTIVE GOVERNMENT	2/16/18	\$76.92
ANTHONY GONZALEZ FOR CONGRESS	2/27/18	\$250.00
HOLLAND & KNIGHT COMMITTEE FOR EFFECTIVE GOVERNMENT	3/2/18	\$76.92
ANTHONY GONZALEZ FOR CONGRESS	3/12/18	\$250.00
HOLLAND & KNIGHT COMMITTEE FOR EFFECTIVE GOVERNMENT	3/16/18	\$76.92
VALUE IN ELECTING WOMEN POLITICAL ACTION COMMITTEE	3/11/19	\$250.00
WINRED	9/21/20	\$50.00
WINRED	10/8/20	\$10.00
WINRED	10/8/20	\$10.00
WINRED	10/15/20	\$10.00
WINRED	10/29/20	\$35.00
WINRED	10/31/20	\$10.00
WINRED	11/8/20	\$10.00
WINRED	11/15/20	\$10.00
WINRED	11/22/20	\$10.00

WINRED	11/29/20	\$10.00
WINRED	12/6/20	\$10.00
WINRED	12/13/20	\$10.00
WINRED	12/20/20	\$10.00
WINRED	12/27/20	\$10.00
VALUE IN ELECTING WOMEN POLITICAL ACTION COMMITTEE	2015	\$250.00

Note: My recollection is that the WINRED donations were for the campaigns of Senators Susan Collins and Joni Ernst.

16. List all scholarships, fellowships, honorary degrees, honorary society memberships, military medals, and any other special recognition for outstanding service or achievements.

Ohio University, *summa cum laude*, August 1993.

Articles Editor, William & Mary Environmental Law and Policy Review, 1998 to 1999.

College of William & Mary Law School, Dean's Certificate Class of 1999.

College of William & Mary Law School, Student Bar Association Vice-President 1998 – 1999.

Dean's and Department of Economics scholarship recipient, Ohio University 1990 to 1993.

The William & Mary Law School, Paul M. Shapiro Memorial Scholarship recipient.

The College of William & Mary's Lewis B. Puller, Jr. Veterans Clinic and the National Law School Veterans Clinic Consortium have recognized my *pro bono* work for these organizations in several of their media releases.

17. List each book, article, column, letter to the editor, Internet blog posting, or other publication you have authored, individually or with others. Include a link to each publication when possible. If a link is not available, provide a digital copy of the publication when available.



Doug Dziak, *Will a Resignation Bring the FEC's Work to a Halt?* Holland and Knight Alert, February 12, 2018, <https://www.mondaq.com/unitedstates/constitutional-administrative-law/672546/will-a-resignation-bring-the-fec39s-work-to-a-halt?type=mondaqai&score=47>.

Christopher DeLacy, Andrew Emerson, and Doug Dziak, *What is the Lobbying Disclosure Act (LDA)?*, Holland and Knight Alert, November 16, 2017, <https://www.hklaw.com/en/insights/publications/2017/11/what-is-the-lobbying-disclosure-act-lda>. (Although I am no longer listed as a co-author, based on a LinkedIn post, I believe I was an original co-author of this client alert.)

Christopher DeLacy and Doug Dziak, *Congress Contemplates Changes to the Foreign Agents Registration Act (FARA)*, Holland and Knight Alert, November 16, 2017, <https://www.hklaw.com/en/insights/publications/2017/11/congress-contemplates-changes-to-the-foreign-agent>. (Although I am no longer listed, based on a social media post, I was a co-author of this post.)

Hon. Thomas M. Reynolds, Sally Vastola, Douglas Dziak, and Jodi Richardson, *Moving Forward, the Trump Administration & 115<sup>th</sup> Congress*, Nixon Peabody Government Relations Group Alert, November 2016. (Digital Copy Attached).

Douglas Dziak, *The Miscellaneous Tariff Bill: if your company produces in the U.S., cost saving may be coming your way*. Nixon Peabody Government Relations Group Alert, April 18, 2016. (Digital Copy Attached).

Anjali Vohra, Alexandra Lopez-Casero and Doug Dziak, *New changes to Iran sanctions: what you need to know*, Nixon Peabody Export Controls Alert, January 19, 2016. (Digital Copy Attached).

Hon. Thomas M. Reynolds, Sally Vastola, and Douglas Dziak, *What does "international tax reform" mean to your business? NP's Government Relations team can help you find out*. Nixon Peabody Government Relations Group Alert, September 22, 2015. (Digital Copy Attached).

Douglas Dziak, *McCutcheon v. FEC: A victory for the First Amendment or something in between?*, Nixon Peabody Government Relations Group Alert, 2014. (Unavailable).

Alexandra Lopez-Casero, D. Grayson Yeargin and Douglas Dziak, *Latest Ukraine-Related Sanctions Likely Won't Be The Last*, March 18, 2014, Law360. (Digital Copy Attached).

Alexandra Lopez-Casero and Doug Dziak, *Takeaways from CFIUS' Latest Win in Court*, November 12, 2013, Law360. (Digital Copy Attached).

Alexandra Lopez-Casero and Doug Dziak, *Court delivers (another) win for CFIUS*, NP M&A and Corporate Transactions Law Alert, October 30, 2013. (Digital Copy Attached).

Douglas Dziak, *Revisiting the Ethical Road Not Taken*, Roll Call, March 18, 2013, <https://rollcall.com/2013/03/18/dziak-revisiting-the-ethical-road-not-taken/>.

The American Bar Association, Section of Antitrust Law, *Premerger Coordination, the Emerging Law of Gun Jumping and Information Exchange*, William J. Vidgor, Editor, 2006, Douglas Dziak, Contributing Drafter regarding U.S. legal issues. I do not recall the particular sections I drafted.

Doug Dziak, *SBA V-P Report*, The Amicus, February 22, 1999, <https://scholarship.law.wm.edu/cgi/viewcontent.cgi?article=1320&context=newspapers>.

Doug Dziak, *SBA VP says get Beach Week Housing, Barrister's Tickets ASAP*, The Amicus, February 3, 1999, <https://scholarship.law.wm.edu/cgi/viewcontent.cgi?article=1045&context=newspapers>.

Doug Dziak, *Vice President Address*, The Amicus, October 26, 1998, <https://scholarship.law.wm.edu/cgi/viewcontent.cgi?article=1043&context=newspapers>.

Jeff Timmers and Doug Dziak, *Buy FFG Tickets ASAP*, The Amicus, October 5, 1998, <https://scholarship.law.wm.edu/cgi/viewcontent.cgi?article=1042&context=newspapers>.

Doug Dziak, *SBA VP Report*, The Amicus, September 7, 1998, <https://scholarship.law.wm.edu/cgi/viewcontent.cgi?article=1319&context=newspapers>.

Doug Dziak, *From the SBA Vice President*, The Amicus, April 20, 1998, <https://scholarship.law.wm.edu/cgi/viewcontent.cgi?article=1041&context=newspapers>.

Doug Dziak, *From the SBA*, The Amicus, April 6, 1998, <https://scholarship.law.wm.edu/cgi/viewcontent.cgi?article=1040&context=newspapers>.

Doug Dziak, *From the SBA Vice-President*, The Amicus, March 23, 1998, <https://scholarship.law.wm.edu/cgi/viewcontent.cgi?article=1361&context=newspapers>.

Jeff Timmers and Doug Dziak, *the SBA Candidates Speak*, The Amicus, February 23, 1998, <https://scholarship.law.wm.edu/cgi/viewcontent.cgi?article=1368&context=newspapers>.

To complete this question, I performed a search of online and other records to locate and identify responsive items. Although I have conducted a diligent search, it is possible that items may have been inadvertently omitted or missed.

18. List all speeches, panel discussions, and presentations (e.g., PowerPoint) that you have given on topics relevant to the position for which you have been nominated. Include a link to each publication when possible. If a link is not available, provide a digital copy of the speech or presentation when available.

I have not given any speeches, presentations, or participated in any panel discussions regarding consumer product safety or the Commission. Nevertheless, I have included events that I participated in as either moderator or panelist. These programs involved my *pro bono* work on veterans' issues and alumni engagement with Ohio University.

The National Law School Veterans Clinic Consortium, National Conference on Law Clinics Serving Veterans, February 28 - March 1, 2018, panel on February 28, 2018, Working with Congressional Offices and Staff. I led a panel to discuss how law school veterans' clinics could work with Congressional offices to achieve their mission. <https://www.law.du.edu/documents/veterans/2018-Program.pdf>.

I acted as a moderator for an Ohio University Washington Policy Forum on January 28, 2016, held at the Capitol Visitor's Center. Ohio University's College of Arts and Sciences, Scripps College of Communications, Ohio University Alumni Association and the Voinovich School of Leadership and Public Affairs organized the event. I welcomed the participants and introduced the panel, which included Ohio University Economics Professor Richard Vedder and Ohio University Alumni Richard May and Hebah Abdalla. (link and digital copy unavailable)

I participated on a panel for Ohio University students visiting Washington, DC, as part of Ohio University's DC Networking Week. Ohio University Director of Legal Engagement & Pre-Law, Larry Hayman, moderated the event, which was a Q&A format and discussed political outsiders, the U.S. Supreme Court and the 2016 election. I did not make a presentation. (link and digital copy unavailable)

To complete this question, I performed a search using internet and Lexis searches. I am including the speeches, presentations, or panel discussions I recalled or found; however, it is possible that events may have been inadvertently missed.

19. List all public statements you have made during the past ten years, including statements in news articles and radio and television appearances, which are on topics relevant to the position for which you have been nominated, including dates. Include a link to each statement when possible. If a link is not available, provide a digital copy of the statement when available.

None.

20. List all digital platforms (including social media and other digital content sites) on which you currently or have formerly operated an account, regardless of whether or not the account was held in your name or an alias. Include the full name of an "alias" or "handle", including the complete URL and username with hyperlinks, you have used on each of the named platforms. Indicate whether the account is active, deleted, or dormant. Include a link to each account if possible.

I have operated the following social media accounts:

Active

Facebook: <https://www.facebook.com/dougfromDC> (Doug DC)

LinkedIn: <https://www.linkedin.com/in/douglas-d-70012a1/> (Douglas Dziak)  
Instagram: [https://www.instagram.com/ohio\\_doug/](https://www.instagram.com/ohio_doug/) (ohio doug)  
Peloton: <https://members.onepeloton.com/profile/overview> (OhioDoug)

Dormant/Inactive

Twitter: <https://twitter.com/Doug08129000> (@Doug08129000)  
Nextdoor: <https://nextdoor.com/profile/018Ls3XqjnpPZtgWT/> (Doug D.)

21. Please identify each instance in which you have testified orally or in writing before Congress in a governmental or non-governmental capacity and specify the date and subject matter of each testimony.

None.

22. Given the current mission, major programs, and major operational objectives of the department/agency to which you have been nominated, what in your background or employment experience do you believe affirmatively qualifies you for appointment to the position for which you have been nominated, and why do you wish to serve in that position?

I believe that my public service career, including my current service as Chief Counsel to CPSC Commissioner Peter Feldman, and my legal career as a regulatory attorney qualify me to serve as a CPSC Commissioner. In my current role at the CPSC, since 2021, I have worked closely with other Commission offices and career staff to help the CPSC achieve its vital mission of protecting the public from unreasonable risks of injury and death from consumer products.

I served eight years as a Senate staffer, including as a Staff Director of the Budget Committee and Legislative Director for two Senators. In those roles, I managed Senate staff, worked with Senate committees and other Senators' staff to draft and pass legislation addressing issues including health and health care, safety, finance, intellectual property, and budget and appropriations.

Outside of government, I served for roughly 15 years as a regulatory attorney working on a range of legal issues including antitrust, energy, telecommunications, and political law. This experience provided me with a significant and varied background, which has and will continue to serve me well as the CPSC engages in a range of activities ranging from rulemakings to administrative litigation.

I would be honored to continue in public service as a CPSC Commissioner. I was privileged to work with two dedicated public servants in Senators Enzi and Voinovich. Both taught me the fulfillment gained in solving problems by working with others to find common ground on challenging issues.

The CPSC is an agency with a critical safety mission. I am committed to working with all stakeholders to solve problems. I have worked my entire career to bring parties together and am committed to continuing that should I be confirmed.

One of the Commission's areas of particular importance, and one of the issue areas I hope to focus on should I be confirmed, is how to reduce consumer related injuries to adults 65 and older. My spouse and I each have an aging parent and I see the risks that surround them in the home. Finally, I believe it is important the CPSC have a fully-staffed Commission to help it achieve its safety mission.

23. What do you believe are your responsibilities, if confirmed, to ensure that the department/agency has proper management and accounting controls, and what experience do you have in managing a large organization?

Ensuring management and financial controls is critical to achieving any department or agency's mission. The public and Congress must have confidence that departments and agencies are good stewards of taxpayer resources. Otherwise, we will lose their trust and should that happen, it may result in an audience less likely to listen to the messages we are trying to share about our core consumer safety issues.

I served as the Staff Director for the U.S. Senate Committee on the Budget. The Budget Committee regularly worked with the Government Accountability Office (GAO) regarding financial and accounting controls as well as general program management issues. During my OGM tenure with Senator Voinovich, we also worked with GAO and Inspectors General (IG).

I have and will continue to work with the CPSC's IG to ensure the Commission is working to implement his office's recommendations across a range of areas, including management and accounting control.

I am particularly proud of the work the Commission has done over the past two years to implement its IG's recommendations into the fiscal year operating plans.

24. What do you believe to be the top three challenges facing the department/agency, and why?

E-commerce – The direct sale of products from businesses to consumers provides bad-actor companies, which are often located overseas, with the ability to circumvent existing enforcement methods. Increasingly, consumers are able to purchase products via e-commerce websites directly from businesses. Such sales are sent directly to consumers via de minimis shipments and thus are not subject to the traditional inspection methods.

The volume of the business-to-consumer sales will continue to increase significantly, posing greater risk of violative product getting into commerce. While the Commission is growing its online enforcement with efforts like our e-safe program, including de minimis shipments and growing our traditional port inspections, challenges remain. For example, as noted, many of these sellers are located overseas and sell in small quantities, making tracking questionable products a greater challenge than in the past when a port inspector could stop a large shipment for review.

Safety Risks for Adults 65 years and Older – The CPSC's Division of Hazard Analysis March 2023 report observed that from 2017 to 2021, adults 65 and older sustained an estimated 14.9 million emergency department-treated injuries associated with consumer products. The volume of these injuries among this demographic demonstrates that interactions with otherwise safe consumer products is a significant and, based on trend lines, a growing issue.

The costs, both societal and to the family, can be enormous. I have seen this first hand as my mother-in-law had a major head trauma after an in-home fall and subsequent brain bleed. She has never entirely recovered to her former level of activity and has required significant treatments and care.

CPSC data shows increasing risks as adults age. The rate of injuries is significantly higher for adults 65 and above (5.5 consumer product injuries per 100 adults in the over 65 group versus 2.9 injuries per 100 adults aged 25 to 64). In addition, injuries to older adults more frequently led to

hospitalization. I believe it is important that the Commission heighten its communications to illustrate the greater risk of injury to adults 65 and older as they interact with consumer products.

Recall Effectiveness – When the CPSC works with a company to recall a product using a corrective action plan (CAP) (commonly known as a recall), the number of consumers who take advantage of a CAP is often low versus the number of products eligible. This ratio, known as recall effectiveness, has been an issue of concern for both Congress and the Commission.

In a November 2020 report, GAO recommended the Commission take steps to better monitor companies subject to a CAP to improve recall effectiveness. Efforts to increase recall effectiveness continue, yet challenges remain. For example, there are significant issues in notifying consumers about a product recall. In a world in which information flows constantly, once-innovative methods of communications such as email are often now so frequent, it is easy for consumers to miss recall notifications.

The CPSC is working with companies to increase direct-to-consumer outreach. Connected devices provide one innovative method to contact consumers. The connected device may provide notice on the device itself, in an app running the device, or a text to the phone number attached to the device.



## **B. POTENTIAL CONFLICTS OF INTEREST**

1. Describe all financial arrangements, deferred compensation agreements, and other continuing dealings with business associates, clients, or customers. Please include information related to retirement accounts, such as a 401(k) or pension plan.

None.

2. Do you have any commitments or agreements, formal or informal, to maintain employment, affiliation, or practice with any business, association, or other organization during your appointment? If so, please explain.

None.

3. Indicate any investments, obligations, liabilities, or other relationships which could involve potential conflicts of interest in the position to which you have been nominated. Explain how you will resolve each potential conflict of interest.

As a Schedule C CPSC employee, I am a current Office of Government Ethics (OGE) financial disclosure filer. As a result of my consultations with CPSC's Designated Agency Ethics Officer (DAEO), I am recused from three matters at the CPSC as a result of individual stocks I currently own: Peloton, Costco, and NVIDIA.

In connection with the nomination process, I have consulted with the Office of Government Ethics (OGE) and the CPSC DAEO to identify any conflicts of interest, and any potential conflicts will be resolved within the terms of the ethics agreement I have entered into with OGE. As part of that process and within the terms of the ethics agreement I have entered into with OGE, I have agreed to divest specific publicly-traded stocks I currently own. Should I be confirmed, I will abide by this ethics agreement, and although I am unaware of any other potential conflicts of interest, should issues arise, I commit to continue to work with the CPSC's DAEO to resolve any future conflicts.

4. Describe any business relationship, dealing, or financial transaction which you have had during the last ten years, whether for yourself, on behalf of a client, or acting as an agent, that could in any way constitute or result in a possible

conflict of interest in the position to which you have been nominated. Explain how you will resolve each potential conflict of interest.

In connection with the nomination process, I have consulted with OGE and the CPSC DAEO to identify any conflicts of interest and any identified conflicts. As part of that process and within the terms of the ethics agreement I have entered into with OGE, I have agreed to divest specific publicly-traded stocks I currently own. Should I be confirmed, I will abide by this ethics agreement, and although I am unaware of any other potential conflicts of interest, should issues arise, I commit to continue to work with the CPSC's DAEO to resolve any such future conflicts. I am unaware of any other conflicts.

5. Identify any other potential conflicts of interest, and explain how you will resolve each potential conflict of interest.

I am unaware of any other conflicts of interest. In connection with the nomination process, I have consulted with OGE and the CPSC DAEO to identify any conflicts of interest, and any conflicts will be resolved within the terms of the ethics agreement I have entered into with OGE. Should I be confirmed, I will abide by this ethics agreement, and although I am unaware of any other potential conflicts of interest, should issues arise, I commit to continue to work with CPSC's DAEO to resolve any such future conflicts.

6. Describe any activity during the past ten years, including the names of clients represented, in which you have been engaged for the purpose of directly or indirectly influencing the passage, defeat, or modification of any legislation or affecting the administration and execution of law or public policy.

I provided government relations services to the following entities: Wegmans Food Markets, Inc., Council for Affordable Housing and Rural Development, Cooperative Regions of Organic Producer Pools (CROPP)/Organic Valley, Huff Management Company, Inc., Rensselaer Polytechnic Institute, National Eating Disorders Association, Starrett City, Inc., Monroe County Water Authority, Navient Solutions, Cleveland BioLabs, Inc., Preservation Development Partners, LLC, Covidien LP, Goldman Sachs Group, Inc., Western University of Health Sciences, Building America's Future, Abrasive Blasting Manufacturers Alliance, AbbVie, Camber Property Group, Innovative Wireless Technologies, Inc., Brookshire Grocery, Dawson Holdings, Hogan Lovells, and New York City Housing Authority. To the best of my

recollection, I have not represented a client regarding a consumer product safety issue.

## C. LEGAL MATTERS

1. Have you ever been disciplined or cited for a breach of ethics, professional misconduct, or retaliation by, or been the subject of a complaint to, any court, administrative agency, the Office of Special Counsel, an Inspector General, professional association, disciplinary committee, or other professional group?  
If yes:

- a. Provide the name of court, agency, association, committee, or group;
- b. Provide the date the citation, disciplinary action, complaint, or personnel action was issued or initiated;
- c. Describe the citation, disciplinary action, complaint, or personnel action;
- d. Provide the results of the citation, disciplinary action, complaint, or personnel action.

No.

2. Have you ever been investigated, arrested, charged, or held by any Federal, State, or other law enforcement authority of any Federal, State, county, or municipal entity, other than for a minor traffic offense? If so, please explain.

Yes. In the fall of 1990 when I was a 19-year old college student, I was charged with underage consumption of alcohol.

3. Have you or any business or nonprofit of which you are or were an officer ever been involved as a party in an administrative agency proceeding, criminal proceeding, or civil litigation? If so, please explain.

No.

4. Have you ever been convicted (including pleas of guilty or *nolo contendere*) of any criminal violation other than a minor traffic offense? If so, please explain.

Yes. In the fall of 1990 when I was a 19-year old college student, I was charged with underage consumption of alcohol. I pled no contest to the violation. I recall paying a fine and serving several hours of community service. The conviction was expunged in December 1994.

5. Have you ever been accused, formally or informally, of sexual harassment or discrimination on the basis of sex, race, religion, or any other basis? If so, please explain.

No.

6. Please advise the Committee of any additional information, favorable or unfavorable, which you feel should be disclosed in connection with your nomination.

None.

## **D. RELATIONSHIP WITH COMMITTEE**

1. Will you ensure that your department/agency complies with deadlines for information set by congressional committees, and that your department/agency endeavors to timely comply with requests for information from individual Members of Congress, including requests from members in the minority?

Yes.

2. Will you ensure that your department/agency does whatever it can to protect congressional witnesses and whistleblowers from reprisal for their testimony and disclosures?

Yes.

3. Will you cooperate in providing the Committee with requested witnesses, including technical experts and career employees, with firsthand knowledge of matters of interest to the Committee?

Yes.

4. Are you willing to appear and testify before any duly constituted committee of the Congress on such occasions as you may be reasonably requested to do so?

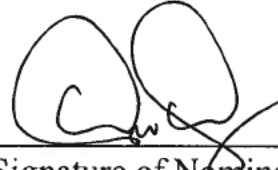
Yes.

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(Nominee is to include this signed affidavit along with answers to the above questions.)

**F. AFFIDAVIT**

Douglas Deziah being duly sworn, hereby states that he/she has read and signed the foregoing Statement on Biographical and Financial Information and that the information provided therein is, to the best of his/her knowledge, current, accurate, and complete.



Signature of Nominee

Subscribed and sworn before me this 27 day of June, 2023.



Notary Public





## Douglas Dziak



### PROFESSIONAL EXPERIENCE

**Consumer Product Safety Commission, Bethesda, MD** 2021–Present  
*Chief Counsel – Office of Commissioner Peter A. Feldman*

- Provide legal and policy counsel to CPSC Commissioner Feldman on matters before the Commission.

**United States Senate, Washington, DC** 2018–2021  
*Staff Director – U.S. Senate Committee on the Budget*

- Supervised majority and non-designated staff to ensure the Chairman's and Committee members' needs were met.
- Developed and implemented committee oversight projects using legal and policy experience.

*Legislative Director – Senator Michael B. Enzi (WY)*

- Promoted Senator Enzi's positions particularly related to his service on the Senate Finance, Homeland Security and Governmental Affairs, and Health, Education, Labor & Pensions committees.
- Reviewed and edited speeches, press statements, and social media communications.

**Holland and Knight LLP, Washington, DC** 2017–2018  
*Senior Counsel – Public Policy & Regulation Group*

- Advised a range of clients to advance public policy goals before Congress and agencies.
- Counseled corporate, trade association, and non-profit clients regarding the Lobbying Disclosure Act, the Federal Election Campaign Act, Congressional and Executive branches of the federal government, and state campaign finance laws.

**Nixon Peabody LLP, Washington, DC** 2011–2017  
*Counsel – Regulatory & Government Relations Group*

- Created and implemented government relations strategic plans on issues including international trade, tax reform, affordable housing, regulatory rulemaking, and education for a range of firm clients.

**United States Senate, Washington, DC** 2006–2011  
*Legislative Director and Chief Counsel – Senator George V. Voinovich (OH)*

- Led policy team advising Senator Voinovich on all legislation before the Senate.
- Oversaw office ethics program including advice to Senator Voinovich and his staff.

*General Counsel – Homeland Security and Governmental Affairs, OGM Subcommittee*

- Formulated legislative initiatives regarding intellectual property, trade, immigration, workforce development, antitrust, economic development, judicial, and ethics issues.
- Served as the attorney-advisor to the Chairman of the Senate Select Committee on Ethics, including developing his strategy regarding the Honest Leadership and Open Government Act.

**Freshfields Bruckhaus Deringer, Washington, DC**

2002–2005

*Associate – Antitrust and Competition Team*

- Advised clients regarding competition issues arising under Sections 1 & 2 of the Sherman Antitrust Act and Section 7 of the Clayton Antitrust Act as applied to mergers, acquisitions, joint ventures, and other business combinations, as well as criminal antitrust investigations.

**Hunton & Williams LLP, Washington, DC**

1999–2002

*Associate – Litigation, Intellectual Property, and Antitrust Team*

- Advised clients, with an emphasis on regulated industries in energy and telecommunications industries regarding competition and merger issues before federal agencies, including the Federal Trade Commission, DOJ Antitrust Division, the Federal Communications Commission, the Federal Energy Regulatory Commission, the Court of Appeals for District of Columbia Circuit, and AAA arbitrations.

**EDUCATION**

*The College of William and Mary, Williamsburg, Virginia, Juris Doctor*

*Ohio University, Athens, Ohio, M.A., Economics; B.A., Summa Cum Laude*

**BAR ADMISSIONS AND SECURITY CLEARANCE**

District of Columbia Bar (active) and Maryland (inactive).

Top Secret and Q security clearances.

**SELECTED PROFESSIONALLY-RELATED & PUBLIC SERVICE ACTIVITIES**

- Served as pro bono counsel to the College of William and Mary School of Law, Lewis B. Puller, Jr. Veterans Benefits Clinic, the National Law School Veterans Clinic Consortium, and the Junior League of Washington.
- D.C. Bar – Board on Professional Responsibility, Lawyer Alternate

## Latest Ukraine-Related Sanctions Likely Won't Be The Last

(March 18, 2014, 9:55 PM EDT)

On March 17, President Barack Obama imposed the next set of what is likely to be a series of sanctions in response to the Russia-Ukraine crisis. These sanctions, coming a day after the U.S. and the European Union rejected the results of Crimea's referendum to secede from Ukraine and join Russia, are targeted at Russian and Ukrainian officials believed to be responsible for the escalation of the crisis.

The new executive order issued by the president "expands upon" the Ukraine-related sanctions that the president issued on March 6. The March 6 executive order did not name specific individuals, but laid the ground for targeted sanctions by declaring a national emergency with respect to Ukraine.

The new executive order sanctions 11 Russian and Ukrainian officials by blocking their properties and assets that are in the U.S., or come within the possession or control of any U.S. person. The named individuals include former Ukrainian President Viktor Yanukovich, Russian presidential aides and advisers, State Duma officials and Crimea-based separatist leaders. The Office of Foreign Assets Control of the U.S. Department of the Treasury added these individuals to its specially designated nationals (SDN) list on March 17.

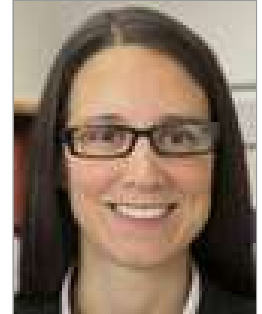
One telling fact is that Russian President Vladimir Putin's name is missing from this list. U.S. officials have stated that it would be "extraordinary" for them to target a head of state with sanctions. It is clear, however, that the sanctions are intended to send a message to President Putin as they include several of his closest advisers, including Vladislav Surkov, who has been called "Putin's Rasputin."

Specifically, the new executive order blocks all property that is in the U.S. or comes within the possession or control of any U.S. person (including foreign branches) of:

- The 11 Russian and Ukrainian officials named in its annex; and
- Anyone determined by the Secretary of the Treasury, in consultation with the Secretary of State:
  - to be a Russian official;
  - to operate in the arms or related material sector in Russia;
  - to be owned or controlled by, or to have acted or purported to act for or on behalf of, directly or indirectly, a senior Russian official or a person whose property has been blocked by the new executive order; and
  - to have materially assisted, sponsored or provided financial, material or technological support for, or goods or services to or in support of, a senior Russian official or a person whose property has been blocked by the new executive order.

The new executive order also prohibits:

- transferring, paying, exporting, withdrawing or otherwise dealing in any blocked property;
- providing any funds, goods or services to, or for the benefit of, any person whose property and interests in property are blocked pursuant to the new executive order;



Alexandra Lopez-Casero

- making any donations by, to or for the benefit of, any person whose property and interests in property are blocked pursuant to the new executive order; and
- receiving any contribution or provision of funds, goods or services from such persons.

The new executive order also imposes a U.S. travel ban on sanctioned persons by denying immigrant and nonimmigrant entry into the U.S.

According to a written fact sheet issued by the White House, the administration "fashioned these sanctions to impose costs on named individuals who wield influence in the Russian government and those responsible for the deteriorating situation in Ukraine. We stand ready to use these authorities in a direct and targeted fashion as events warrant."

Moreover, the fact sheet states that "[t]he United States also will seek to hold accountable individuals who use their resources or influence to support or act on behalf of senior Russian government officials. We recognize that the Russian leadership derives significant support from, and takes action through, individuals who do not themselves serve in any official capacity [italics added]. Our current focus is to identify these individuals and target their personal assets, but not companies that they may manage on behalf of the Russian state."

This should serve as a warning to individuals, particularly wealthy Russian political and business leaders, who have supported senior Russian government officials.

What does this mean for U.S. companies? For now, U.S. companies, particularly U.S. exporters, financial institutions, technology firms, retailers, hotel chains and other service providers, including their foreign branches and affiliates (especially near Russia, Ukraine, London or other EU locations with significant Russian investment), should continue to screen carefully all persons with which they do business against the U.S. lists, adhere to sound compliance practices, and carefully monitor the ongoing developments in the region.

If additional persons are sanctioned by the U.S. government, they will generally be listed on a U.S. designated persons lists, such as the SDN list. Based on the action by the president and the current situation in the region, it seems likely that additional Russian and Crimean-based officials and potentially also business leaders will be sanctioned by the United States. Even if it is unlikely that such individuals have property in the United States or at a U.S. financial institution (including at foreign branches), being added to a U.S. list would have repercussions beyond the U.S.

Most multinational companies, and many companies in Europe and other Western-leaning countries, screen their customers and business parties not only against their regional (for example, EU) prohibited persons lists, but generally also against the U.S. lists. If an individual or an entity is on a list, businesses that screen their customers are unlikely to sell to, or otherwise do business with, that individual or entity.

Being placed on a U.S. list could particularly have repercussions for wealthy Russian political or business leaders. If put on a list, they could find themselves shunned from the U.S. financial system (including U.S. correspondent banks) or shut out of U.S. and Western luxury chains, hotels or coveted global brands that seek to comply with the U.S. sanctions laws. They could also be affected by the U.S. travel ban.

Moreover, in addition to U.S. actions, on March 17 European foreign ministers imposed EU-wide sanctions against 21 Russian and Ukrainian officials.

In addition to the president's issuance of the new executive order, the U.S. House of Representatives passed legislation that allows for \$1 billion in loan guarantees for Ukraine. On March 13, by a vote of 14 to 3, the Senate Foreign Relations Committee approved The Support for the Sovereignty, Integrity, Democracy and Economic Stability of Ukraine Act of 2014.

While the House legislation was limited to providing Ukraine loan guarantees, the Senate legislation includes additional assistance, including asset recovery linked to corruption, technical assistance from the Financial Crimes Enforcement Network, security cooperation, authorization for sanctions against individuals — including Russian Federation officials — and certain reforms to the International

## Monetary Fund.

The Senate tried to clear the legislation on March 13, before the start of a recess period; however, objections to including the IMF language and the desire to amend the bill resulted in the legislation failing to pass the Senate via unanimous consent. Nevertheless, when the Senate returns on March 24, particularly after the Crimean vote, Congress is expected to eventually pass an aid package and sanctions bill.

—By Alexandra Lopez-Casero, D. Grayson Yeargin and Douglas Dziak, Nixon Peabody LLP

*Alexandra Lopez-Casero is counsel, Grayson Yeargin is a partner and Douglas Dziak is counsel in Nixon Peabody's Washington, D.C., office.*

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# MOVING FORWARD

# THE TRUMP ADMINISTRATION

# & 115TH CONGRESS

THE ELECTION IS OVER. NOW WHAT? | NOVEMBER 2016



PREPARED BY:  
HON. THOMAS M. REYNOLDS, DOUGLAS DZIAK,  
SALLY VASTOLA AND JODI RICHARDSON

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## THE ELECTION IS OVER. NOW WHAT?

In what has been described using a variety of adjectives, on November 8, Donald J. Trump was elected to serve as the 45<sup>th</sup> President of the United States. Given the outcome of the election combined with its surprising conclusions, the 2016 election is likely to be studied in political science classes for years to come.

Beyond this headline was the news that for the first time since 2004, post-election, the Legislative and Executive branches of government will be under the control of Republican leadership. With the start of any new administration comes a change in control among the Departments and agencies in government. While every new administration results in change, given President-elect Trump's lack of elected service, what his Administration will do, and who will be elevated to serve at the senior levels in the Trump administration are important questions. The answers to these questions will provide direction about what to expect over the course of the next four years.

This briefing is designed to describe what issues are likely to be priorities for the Trump Administration as well as an early look at the leaders President-elect Trump will appoint and work with in Congress to effect these priorities.

### Likely issues in the first six months

#### 1. FUNDING THE GOVERNMENT

While garnering much less attention than other campaign issues, the stop-gap fiscal year 2017 (FY17) funding bill expires on December 9. Typically, a new administration and Congress would want these issues resolved prior to the January 20 inauguration. However, in this instance, a number of Republican members have suggested that Congress pass another continuing resolution (CR) that would run through March or April. Recently, House Appropriations Chairman Hal Rogers has stated that the committee will work on a CR through March 31, yet Senate Democrats have also indicated a preference to complete the federal spending bills before the end of this Congress.

**BOTTOM LINE:** *As Congress returns to Washington in late November and early December, and the new Trump administration has an opportunity to weigh in with congressional leadership, the fate of the FY17 appropriations bills will be determined.*

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## 2. TAX REFORM

One of the key agenda items for President-elect Trump and congressional leaders is tax reform.<sup>1</sup> Speaker of the House Paul Ryan has already released an outline of the House's tax plan that provides a high-level outline of how it would accomplish such a plan.<sup>2</sup> Senate Majority Leader McConnell has also expressed interest in passing tax reform. Thus, while tax reform has been something often discussed, yet rarely moved on, one-party control of the Legislative and Executive branch of government makes the chances of accomplishing such legislation much higher. One wildcard is whether Republican lawmakers want to pass such legislation alone, without any Democratic support, something that is possible using a process known as reconciliation,<sup>3</sup> or if they will want to enlist Democratic support for such legislation. Such support might be tied to the infrastructure legislation that President-elect Trump has promised, though such legislation has been met with some skepticism among some Republicans.<sup>4</sup>

President-elect Trump and the House Republicans have proposed different tax plans, but both share similar principles. Both budgets would reduce the top tax rate for individuals to 33 % from the current 39.6%, and reduce the top corporate rate to 15% (Trump) to 20% (House) versus the current top corporate rate of 35%.

**BOTTOM LINE:** *Given that so many Republicans and the President-elect have campaigned for and promised tax reform, it is likely that such reforms will be a significant part of six to twelve months of the new Trump administration. The most significant question is how much the new Trump administration decides to negotiate with Democratic members.*

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## 3. IMMIGRATION ISSUES/BORDER CONTROL

President-elect Trump made border control and immigration a cornerstone of his campaign, including his repeated promise that he would build a wall on the U.S. southern border. While some in Congress share his views on border enforcement and immigration, congressional views on immigration have varied over the years. Thus, it is not clear that President Trump will have the support he needs to enact all of his promised plans. For example, in the past, Congress had already allocated significant resources to build a border wall, but logistical and engineering issues hindered its completion. These prior efforts required significant spending, and for President Trump to complete them, he will need cooperation from Congress.

Still, President Trump is likely to rescind or scale back President Obama's immigration relief programs, such as the Deferred Action for Childhood Arrivals (DACA) and step up internal enforcement to remove current undocumented aliens. He could also see greater interest in a

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<sup>1</sup> [https://assets.donaldjtrump.com/\\_landings/contract/O-TRU-102316-Contractv02.pdf](https://assets.donaldjtrump.com/_landings/contract/O-TRU-102316-Contractv02.pdf).

<sup>2</sup> <http://abetterway.speaker.gov/>.

<sup>3</sup> A part of the budget process, reconciliation would permit the Senate to get around its normal procedural requirements to obtain 60 votes for any bill to completion.  
<http://www.politico.com/story/2016/10/paul-ryan-budget-congress-229216>.

<sup>4</sup> <http://www.npr.org/2016/11/09/501451368/here-is-what-donald-trump-wants-to-do-in-his-first-100-days>.

mandatory employee verification system, though such systems have been discussed in the past and have been problematic.

President-elect Trump included ending funding to so-called sanctuary cities in his pre-election commitments, and while this was vague, there has been support in Congress to limit spending to such cities in the past. In addition, given President-elect Trump's stated commitment to immigration reform, we expect to see increasing funding for the Department of Homeland Security and the Department of Justice to effect this commitment.

**BOTTOM LINE:** *Given that President-elect Trump campaigned so strongly on border control and immigration reform, it is likely that he will focus considerable resources on immigration enforcement and perhaps build a wall across the U.S. southern border and increase internal enforcement and removal. Moreover, it is likely that President Trump will reverse many of the immigration programs, like DACA, President Obama instituted, and he may seek to implement a more stringent employment verification system.*

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#### 4. INFRASTRUCTURE

President-elect Trump has long spoken about the need to focus on U.S. infrastructure. During his victory speech early Wednesday morning, he said, "We are going to fix our inner cities and rebuild our highways, bridges, tunnels, airports, schools, hospitals," Trump said. "We're going to rebuild our infrastructure—which will become, by the way, second to none—and we will put millions of our people to work as we rebuild it."

Nevertheless, Senate Majority Leader McConnell, as well as some conservative groups, expressed skepticism toward a significant national infrastructure plan.<sup>5</sup> Still, infrastructure is one area where the new administration could find bipartisan support given the continued issues facing U.S. infrastructure, which has been graded to be in poor condition.<sup>6</sup>

**BOTTOM LINE:** *Given the bipartisan support for infrastructure, and depending on President Trump's commitment to it, a robust infrastructure bill is possible, though if it is to be bipartisan, such legislation will be more complex than some of his other agenda items.*

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#### 5. REFORM OF THE AFFORDABLE CARE ACT

Given that President-elect Trump and the Republican Congressional leadership have proclaimed a desire to repeal and replace the Affordable Care Act (ACA), it is likely that most, if not all, of the ACA will be repealed or significantly altered.

Still, President-elect Trump has indicated that he may be open to keeping some ACA provisions, such as allowing children to stay on their parents' insurance until the age of 26 and guaranteeing coverage for pre-existing conditions. It is likely that the repeal and replace effort will take longer

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<sup>5</sup> <http://www.npr.org/2016/11/09/501451368/here-is-what-donald-trump-wants-to-do-in-his-first-100-days>.

<sup>6</sup> <http://www.infrastructurereportcard.org/>.

than anticipated. Congressional leaders have discussed using a budget tool, known as reconciliation, as the means to repeal/amend the ACA. The use of the reconciliation tool, by its nature and statutory limitations, will limit how much of the ACA can be repealed or changed without bipartisan support.

In addition, the health care community has undertaken significant investment and training to implement the ACA; it will take time to unwind these changes and implement any new system, and feedback from these stakeholders will affect the final product.

**BOTTOM LINE:** *Change is coming to the ACA, but that change, necessary to both develop the new system as well as transition from the old, will take time. Engaging in discussions with stakeholders is the key to having one's voice heard and being a part of this change*

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## 6. REGULATORY REFORM

President Trump will have significant opportunities to change and eliminate many of the regulations President Obama put in place. In particular, President-elect Trump has stated on numerous occasions that he will reverse Obama administration regulations regarding immigration and energy. Most of these efforts will not require Congressional action. The country may start to see some of these changes in the earliest days of the new administration when President Trump reverses, as he has repeatedly promised, President Obama's executive orders. Other regulatory changes, undertaken through the rulemaking process, may take longer as the departments and agencies comply with the Administrative Procedures Act and its requirements.

It is also important to keep in mind that Congress may use its authority under the Congressional Review Act (CRA), which was enacted in 1996 and requires all final rules be submitted to both houses of Congress and the Government Accountability Office (GAO) before they can take effect. Congress has 60 days to introduce a joint resolution of disapproval. While the President would normally veto such a resolution, given the administration promulgated the rule, the CRA combined with a change in administrations (in this instance the Obama to Trump administration) provides an opportunity for Congress to assert its authority under the CRA with a degree of expected success. A Congressional Research Service note has suggested that any new rules finalized after May 16, 2016, could be reversed under the CRA, depending on the length of the Congress's lame duck session.<sup>7</sup>

**BOTTOM LINE:** *Significant regulatory changes are likely under the Trump administration and the new Congress. The depth and breadth of those changes will take time, but the individuals who are named to cabinet and other positions in the new administration will play a key role as these regulatory changes are made. In addition, Congress may assert its authority under the CRA and also work to reverse some of the Obama administration's recent rulemakings.*

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<sup>7</sup> See <http://src.bna.com/cAk>

## 7. THE SUPREME COURT

The death of Justice Antonin Scalia has left an opening on the U.S. Supreme Court. Senate Majority Leader McConnell has indicated since Justice Scalia's death that he would wait to hold hearings until the new President was sworn in. President Trump will now have his opportunity to nominate Justice Scalia's replacement, and possibly, others should any justices decide to retire.

This potential shifting of the Supreme Court could provide a longer-lasting legacy than any particular legislation, yet the country will not see that potential possibly for years to come.

**BOTTOM LINE:** *Candidate Trump published a number of judges that he indicated he would select from for the Court. That list can be found here: <https://www.donaldjtrump.com/press-releases/donald-j.-trump-adds-to-list-of-potential-supreme-court-justice-picks>. President Trump is expected to nominate a new justice relatively early, but the Supreme Court is likely to remain in its current 8 justice make-up for the next several months as the nominee works through the process, competing against legislative and other nominations for time on the Senate's calendar.*

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## 8. ENERGY

President-elect Trump has repeatedly stated that he will lift any of President Obama's executive orders and regulatory rules that restrict domestic energy production. Moreover, with Republicans retaining control of both houses of Congress, he is likely to be working with a Congress that agrees with his views. Based on the public release of information about his transition, it appears he will take a significantly different view on domestic energy than President Obama. In particular, the use of coal, nuclear, and natural gas are likely to receive a much more favorable audience versus renewables under the Trump administration. This point of view is likely to be reflected in President Trump's review of existing Obama administration executive orders and regulatory rules.

While President-elect Trump has stated his interest in such administrative changes, it is less clear what Congress can agree on in the first six months of the administration. In particular, if legislative changes are proposed, President Trump will need to work with Congress, and in particular the Senate, to obtain the necessary bipartisan legislation to make such changes.

**BOTTOM LINE:** *Given President-elect Trump's statements about increasing traditional domestic energy sources, we believe that these areas of energy are likely to see a more favorable regulatory environment, while renewable energy will likely see a less favorable environment.*

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## The Cabinet

In the next few days and weeks, President-elect Trump will name individuals to serve in his cabinet. These individuals will assist the new President in effecting change at the Department and agency level. Moreover, over 4,000 presidential appointments will be made in the days and months ahead, and many of those will affect significant constituencies.

President-elect Trump's selection of the Republican National Committee (RNC) Chairman, Reince Priebus, as his Chief of Staff and Steve Bannon as a chief strategist and senior counselor suggests that he will continue to rely on the same team that helped him win the election. Mr. Priebus, as the RNC chair also brings experience in dealing with members of the House and Senate as well as a grass-roots network that will assist President Trump in navigating Washington.

In addition to these picks, a number of individuals have been floated as members of the Trump cabinet, including various members of Congress and “outsiders.” The cabinet positions will start to be filled over the course of the next several weeks.

## The Congress

In addition to the new administration, congressional leadership will also see changes. Here is what we expect to see in the House and Senate:

### 1. SENATE LEADERSHIP

**REPUBLICAN**—Senator Mitch McConnell is expected to remain the Senate Majority Leader. In addition we expect to see Senators John Cornyn continue as Senate Republican Whip, John Thune as Senate Republican Conference Chairman, John Barrasso as Senate Republican Policy Chairman, and Roy Blunt as Senate Republican Vice Conference Chairman. A new National Republican Senatorial Committee Chairman will be selected to replace Chairman Roger Wicker.

**DEMOCRATIC**—Senator Harry Reid, the current Minority Leader, will retire after this Congress and Senator Charles Schumer will replace him in that role. Senator Dick Durbin will serve as the Minority Whip, Senator Patty Murray as Assistant Democratic Leader, Senator Debbie Stabenow as the Chair of the Democratic Policy and Communications Committee, Senators Elizabeth Warren, and Mark Warner as Vice Chairs of the Conference, Senator Bernie Sanders as Chair of Outreach, Senator Joe Manchin will serve as Vice Chair of the Policy and Communications Committee and Senator Tammy Baldwin as Conference Secretary. Senator Jon Tester, who is in cycle in 2018, is not expected to continue as the Chair of the Democratic Senatorial Campaign Committee.

### 2. HOUSE LEADERSHIP

**REPUBLICAN**—Rep. Paul Ryan was re-elected as the Speaker of the House. In addition, Majority Leader Kevin McCarthy, Majority Whip Steve Scalise, and Republican Conference Chairman McMorris Rodgers were also re-elected to continue their roles. Rep. Steve Stivers was elected to chair the National Republican Campaign Committee. .

**DEMOCRATIC**—While Rep. Nancy Pelosi had been expected to continue as the Democratic Leader, with her team of Democratic Whip Steny Hoyer and Assistant Democratic Leader James Clyburn, there is no guarantee. Democratic leaders postponed leadership elections, at the request of some Democratic members, from November 15th to November 30th. This delay could give candidates time to mount an election challenge to the Democratic leadership team, an outcome that bears monitoring.

## Congressional committees

### 1. THE U.S. SENATE

**AGING:** Senator Susan Collins is expected to remain as the Chair. Senator Bob Casey is expected to replace Senator Claire McCaskill, who is expected to take over Homeland Security and Governmental Affairs, as Ranking Member.

**AGRICULTURE:** Senators Pat Roberts and Debbie Stabenow are expected to remain as the Chair and Ranking Member of the committee.

**ARMED SERVICES:** Senators John McCain and Jack Reed are expected to remain as the Chair and Ranking Member of the committee.

**APPROPRIATIONS:** Senator Thad Cochran is expected to remain as the Chair; Senator Patrick Leahy is expected to replace retiring Senator Barbara Mikulski as the Ranking Member of the committee.

**SENATE COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS:** Senator Mike Crapo is expected to replace Senator Richard Shelby, who is term limited, as the Chair. Senator Sherrod Brown is expected to continue as the Ranking Member.

**SENATE BUDGET COMMITTEE:** Senators Mike Enzi and Bernie Sanders are expected to remain as the Chair and Ranking Member of the committee.

**COMMERCE COMMITTEE:** Senators John Thune and Bill Nelson are expected to remain as the Chair and Ranking Member of the committee.

**ENERGY AND NATURAL RESOURCES:** Senators Lisa Murkowski and Maria Cantwell are expected to remain as the Chair and Ranking Member of the committee.

**ENVIRONMENT AND PUBLIC WORKS:** The current chair and ranking member will not return. The next EPW Chair is likely Senator John Barrasso. Shelley Moore Capito could become chair if Senator Barrasso passes on the opportunity. The Ranking Member is likely to be Senator Tom Carper.

**SENATE FINANCE COMMITTEE:** Senators Orrin Hatch and Ron Wyden are expected to continue in their roles as chair and ranking member.

**SENATE FOREIGN RELATIONS COMMITTEE:** Senators Bob Corker and Ben Cardin are expected to continue in their roles as chair and ranking member.

**SENATE HEALTH, EDUCATION, LABOR & PENSIONS:** Senators Lamar Alexander and Patty Murray are expected to remain as the Chair and Ranking Member.

**SENATE HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS COMMITTEE:** Senator Ron Johnson is expected to continue as the Chair. Current Ranking Member, Tom Carper, is likely to claim the Ranking Member position on the EPW committee, in which case Senator Claire McCaskill would likely become the Ranking Member.

**INDIAN AFFAIRS COMMITTEE:** Senator John Barrasso could take the EPW Chair. If so, Senator John Hoeven could take the chair. Senator Jon Tester is expected to remain as Ranking Member of the committee.

**INTELLIGENCE COMMITTEE:** Senator Richard Burr is expected to remain as the Chair, while Senator Mark Warner may serve as the new Ranking Member, replacing Senator Dianne Feinstein who moves to Judiciary.

**JUDICIARY COMMITTEE:** Senator Charles Grassley is expected to remain as the Chair. Senator Dianne Feinstein will serve as Ranking Member.

**RULES AND ADMINISTRATION:** Senator Roy Blunt is expected to remain the Chair, while Amy Klobuchar will serve as Ranking Member.

**SMALL BUSINESS AND ENTREPRENEURSHIP:** Senator James Risch is in line to succeed retiring Chair David Vitter. If Senator Risch took another Chair, then Senator Mark Rubio would be in line to chair this committee. Senator Jeanne Shaheen is expected to remain as Ranking Member.

**VETERANS AFFAIRS:** Senators Johnny Isakson and Richard Blumenthal are expected to remain as the Chair and Ranking member.

## 2. THE U.S. HOUSE OF REPRESENTATIVES

**APPROPRIATIONS:** Reps. Rodney Frelinghuysen or Robert Aderholt are expected to serve as Chair; Rep. Nita Lowey is expected to continue to serve as the Ranking Member.

**ARMED SERVICES:** Reps. Mac Thornberry and Adam Smith are expected to continue as Chair and Ranking Member.

**BUDGET COMMITTEE:** Rep. David Price is expected to remain as the Chair, while Rep. John Yarmuth is likely to take over as Ranking Member.

**EDUCATION AND WORKFORCE:** Rep. Virginia Foxx is expected to take over for John Kline, while Rep. Bobby Scott is expected to continue to serve as the Ranking Member.

**ENERGY AND COMMERCE:** Reps. John Shimkus or Greg Walden are expected to become the Chair, while Rep. Frank Pallone is expected to remain as Ranking Member.

**FINANCIAL SERVICES:** Reps. Jeb Hensarling and Maxine Waters are expected to continue as Chair and Ranking Member.

**FOREIGN AFFAIRS:** Reps. Ed Royce and Eliot Engel are expected to continue as Chair and Ranking Member.

**JUDICIARY:** Reps. Bob Goodlatte and John Conyers are expected to continue as Chair and Ranking Member.

**NATURAL RESOURCES:** Reps. Rob Bishop and Raul Grijalva are expected to continue as Chair and Ranking Member.

**RULES:** Reps. Pete Sessions and Louise Slaughter are expected to continue as Chair and Ranking Member.

**TRANSPORTATION AND INFRASTRUCTURE:** Rep. Bill Shuster is expected to remain as Chair and Rep. Pete DeFazio is expected to remain as Ranking Member.

**VETERANS AFFAIRS:** Reps. Phil Roe, Gus Bilirakis, Doug Lamborn and Mike Coffman are expected to contend for the Chair, while Reps. Mark Takano and Tim Walz will contend for the Ranking Member position.

**WAYS AND MEANS:** Reps. Kevin Brady and Sandy Levin are expected to continue as Chair and Ranking Member.

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GOVERNMENT RELATIONS ALERT | NIXON PEABODY LLP

APRIL 18, 2016



## The Miscellaneous Tariff Bill: if your company produces in the U.S., cost saving may be coming your way

By Douglas Dziak

If you are a U.S. producer of goods that imports component parts for your finished product, in the past your company enjoyed tax relief every two years (or so) when Congress would pass tariff relief legislation. Since it last expired in 2012, the Miscellaneous Tariff Bill (MTB), a compilation of individual tariff suspension bills that are functionally a short-term manufacturing tax cut, has been stuck in legislative limbo because the underlying legislation making up the MTB, even though it was not automatically a specific benefit to a specific company, was deemed to violate the earmark ban, which Congress enacted in 2011.

For the past several years, Members in both the House and Senate, on a bipartisan basis, have been working to find relief for these domestic producers, and it finally appears relief has arrived. On April 13, the U.S. House Committee on Ways and Means and the U.S. Senate Finance Committee released legislation that would create a new MTB process and allow the import relief that many producers relied upon to begin again.<sup>1</sup>

For industries ranging from agriculture to technology and everything in between, such legislation will be welcome tax relief. Congress last passed MTB legislation in 2010, and those provisions expired in 2012, subjecting American producers to increased input costs that many of their foreign competitors did not face.

The American Manufacturing Competitiveness Act of 2016 will create a reformed MTB process that would keep many of the features of prior generations of MTB legislation. Included in these features is the following test: (1) Are there any domestic producer objections? (2) Is the revenue loss for a specific duty reduction no more than \$500,000 annually? and (3) Is the suspension available to any importer? The new process would begin with petitions to the U.S. International

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<sup>1</sup> See <http://www.finance.senate.gov/imo/media/doc/American%20Manufacturing%20Competitiveness%20Act%20.pdf>, and <http://waysandmeans.house.gov/wp-content/uploads/2016/04/AmericanManufacturingCompetitivenessAct.pdf>

Trade Commission (ITC). In the past, domestic producers would work through a Member of Congress to get their product included in the MTB. The ITC would then conduct an analysis, similar to prior MTB bills, to confirm there is no domestic production, and to ensure the appropriate tariff headings and other technical issues are addressed. The ITC would then issue a public report to Congress discussing and recommending products that meet the test described above.

## **Why the need?**

There are two significant drivers for reforming the MTB process:

1. Congress last enacted legislation to address these taxes in 2010, and since 2012, U.S. producers, facing significant global competition, have been paying an estimated \$748 million tariff to produce in the United States; and
2. MTBs were traditionally non-controversial; they were a method to help domestic producers of all sizes and across a range of industries that might otherwise move production abroad, while maintaining U.S. bargaining power in future trade negotiations. Given the growing concern about domestic production being moved abroad, this legislation is designed to provide incentives to keep domestic production.

## **What are the potential changes and what do they mean for my business?**

We believe the legislation will move a new round of MTB legislation forward, providing significant tariff relief to a range of U.S. producers. If passed, users of the products that could receive tariff relief will need to monitor a new process and ensure that they meet the deadlines and application criteria included in the new process. These changes will require monitoring of the Congress, the U.S. International Trade Commission and the U.S. Department of Commerce processes.

## **How can NP's GR team help?**

Our team has deep bipartisan relationships in Congress with the tax and trade committees and has the requisite experience with the agencies involved in the new MTB process to provide your company with the assistance it needs to take advantage of this new process.

The NP Government Relations and Public Policy team is led by the Hon. Thomas M. Reynolds, who served as a senior member of the House Ways and Means Committee, and served on the Ways and Means Trade subcommittee. While serving on the subcommittee Congressman Reynolds authored and passed several MTB bills into law. Our team also includes Douglas Dziak who drafted numerous MTB bills that were enacted into law during his time working in the U.S. Senate and has worked on matters before the U.S. International Trade Commission in his legal practice. Our team knows the old MTB process, as well as how these proposed changes will create new opportunities for significant cost savings for specific companies.

Let us work with you to answer questions about how MTB legislation might affect your company.

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NP

## What does “international tax reform” mean to your business? NP’s Government Relations team can help you find out.

By Hon. Thomas M. Reynolds, Sally Vastola and Douglas Dziak

Leaders from the U.S. House of Representatives Ways and Means Committee and the U.S. Senate Finance Committee are increasingly writing about the importance of international tax reform to protecting U.S. jobs and bolstering the nation’s economy. And there’s a growing consensus among the business community and Congress that this reform can’t wait any longer. Recently, Senators Chuck Schumer (D-NY) and Rob Portman (R-OH) have drafted a bipartisan framework—one that we think is jumpstarting the reform process.

### What’s driving international tax reform?

- A U.S. tax code that encourages U.S. companies to move jobs and investments overseas.
- A need to finance government priorities, such as a much needed long-term infrastructure bill.

### How could international tax reform legislation like the Portman-Schumer framework affect my business?

**Deemed repatriation.** This may have significant tax consequences on your company’s earnings currently held or invested outside of the U.S.

**Issue:** Appropriate discounted repatriation rate, foreign tax credit treatment, and what is covered.

**Innovation box regime.** This would provide a substantially lower tax rate for intellectual property (IP). Legislation drafted by House Ways and Means Committee Members Charles Boustany (R-LA) and Richard Neal (D-MA) suggests a tax rate of 10% for IP as opposed to the 35% general corporate rate.

**Issue:** Given upcoming changes to OECD tax rules, without the innovation box, there will be greater pressures for U.S. companies to move R&D to countries with more favorable tax regimes, potentially costing jobs and U.S. innovation advantage.

## Potential consequences of the Portman-Schumer framework

- Repatriation may not be optional for your company and result in unknown, significant tax consequences.
- Repatriated funds could be used “for investments in transportation infrastructure,” make certain tax extenders permanent, or lower tax rates.

## Why us?

- We can help you identify significant and impactful issues early on and develop sound government relations strategies addressing them.
- Our team has bipartisan relationships in Congress with tax writing, transportation, and judiciary (IP jurisdiction) committees.
- We draw on the experience of a former member of Congress, who was a senior member of the House Ways and Means Committee, a Chief of Staff, a Legislative Director, as well as other congressional staffers.

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