



U.S. CHAMBER OF COMMERCE

U.S. Chamber Policy Accomplishments January—December 2016

In 2016, the Chamber worked aggressively to promote its agenda to help revitalize the American economy, create jobs, spur growth, lift incomes, and to advance our members' interests and defend the free enterprise system. These efforts are detailed throughout this document.

ANTITRUST

- Secured House passage of the SMARTER Act. The Chamber was the lead proponent in support of legislation that addresses the long-standing desire to align the merger standards and procedures followed by the Federal Trade Commission (FTC) with those of the Department of Justice Antitrust Division.
- The FTC issued Section 5 guidance for the first time in its more than 100-year history, providing limited contours to how it sees its enforcement authority under its “unfair methods of competition” statutory authority. The Chamber was the leading voice calling for guidance. Although the guidance that was issued fell short of the business community’s expectations, the issuance itself was a marked sign of the pressure the agency is under.

CAPITAL MARKETS, CORPORATE GOVERNANCE, AND SECURITIES REGULATION

Disclosure Reform: SEC Releases Reform Proposal

- In July, the Securities and Exchange Commission (SEC) released a proposal to eliminate obsolete, redundant, and overlapping disclosures and improvements to other disclosures that are not meeting their intended purposes. This proposal was the outgrowth of the 2014 Chamber study on disclosure effectiveness.

SEC Enforcement: Adopts Changes to Administrative Proceedings

- In July, the SEC adopted amended rules of practices in administrative proceedings. This granted defendants for the first time a right of deposition and certain discovery rights. This was also the first time that discovery rights had been expanded for defendants and is significant as more SEC enforcement matters are going before

administrative law judges. This change was the result of the 2015 Chamber study on SEC enforcement.

SEC Reform: Congress Creates Small Business Advocate at the SEC

- In December, Congress passed the SEC Small Business Advocate Act of 2016. The legislation creates an Office of the Advocate for Small Business Capital Formation in the SEC to help small businesses with matters related to the SEC and to analyze SEC regulatory impact on small business capital formation in consultation with the commission. The Chamber strongly supported the legislation and pushed for its passage.

Fiduciary Duty: Congress Votes to Overturn Fiduciary Rule

- In April, the U.S. Department of Labor (DOL) finalized its new fiduciary rule, which discriminates against small businesses and subjects financial advisers to significant new liability, including private right of action. The Chamber advocated for Congress to use its authority under the Congressional Review Act to overturn the rule, and both the House and the Senate approved the resolution within the 60-day time frame, sending the legislation to the president. The legislation was later vetoed.

Fiduciary Duty: Appropriations Policy Rider

- In July, the House Appropriations Committee reported out of committee the fiscal year 2017 Labor-HHS Appropriations bill, which included a policy rider nullifying the DOL fiduciary rule by removing the rule's effective date and legal effect. This comes on the heels of strong lobbying by the Chamber for inclusion of a policy rider that would reverse the effects of the rule.

Derivatives: CFTC Delays Lowering Swap Dealer De Minimis Threshold

- The Commodity Futures Trading Commission (CFTC) announced in September that it would delay the lowering of the swap dealer de minimis exemption threshold by one year. In announcing the decision, the commission cited concerns over how the lower threshold would impact liquidity, a concern highlighted by the Chamber-led Coalition for Derivatives End-Users in a January comment letter, as well as the Chamber in testimony before the House Agriculture Committee in April.

Beneficial Ownership: Introduction of Bipartisan Legislation

- The Chamber supported a bill sponsored and introduced by Sens. Tom Carper (D-DE) and Dean Heller (R-NV) on beneficial ownership information retrieval as an alternative to legislation that would criminalize and fine businesses of all sizes for failure to identify and keep current a record of beneficial owners.

Auditing: PCAOB and SEC Host Stakeholders Meeting

- In June, the Public Company Accounting Oversight Board (PCAOB) and the SEC hosted a meeting of stakeholders to address concerns with rising internal control costs resulting from PCAOB enforcement practices, as well as issues relating to auditor judgment and the related party standard. This meeting followed a productive

meeting in August 2015 that was the result of a yearlong effort by the Chamber's Center for Capital Markets Competitiveness' (CCMC's) Financial Reporting Working Group. This included a letter to PCAOB and the SEC calling such a meeting, as well as meetings with PCAOB board members, the SEC chief accountant, and key House and Senate committee staff.

Corporate Governance: Proxy Advisory Firm Legislation

- The Chamber helped draft the Corporate Governance Reform and Transparency Act, introduced by Rep. Sean Duffy (R-WI). This bill would create a regulatory structure and increased oversight for proxy advisory firms. It was approved by the House Financial Services Committee with a bipartisan vote of 41-18 in June.

Financial Services and General Government Appropriations Bill

- The Chamber succeeded in having a number of important priorities included in the spending bill, which passed the House in July. Those priorities included prohibiting political and lobbying spending disclosures for both the SEC and under federal contracting rules; prohibiting the development of a rule on universal ballot; placing the Consumer Financial Protection Bureau (CFPB) and the Office of Financial Research (OFR) under appropriations; language limiting CFPB's proposed rule on arbitration; language requiring transparency for systemic risk regulation; and prohibiting enforcement of conflict minerals and pay ratio rules.

DEFICITS AND DEBT

- Successfully ensured that the pressing need for fundamental entitlement reform remains on the nation's policy agenda by continuing to advocate for viable entitlement reform legislation, such as the bipartisan Save Our Social Security Act to restore Social Security to fiscal health.

EDUCATION AND WORKFORCE DEVELOPMENT

- Secured House passage of The Strengthening Career and Technical Education for the 21st Century Act (H.R. 5587), which would provide around \$1 billion in federal support to states and communities that provide career awareness and preparation programs in K-12 schools and community colleges. Employers report a shortage of skilled workers to fill in-demand positions. Modernized and relevant career and technical education (CTE) programs, designed with input from employers and responsive to the needs identified by labor market data, are central to overcoming this skills gap. The legislation focuses on areas where improvements can be made to current law, building on its past successes and enhancing aspects of the Perkins CTE Act, which will better serve both workers and employers.
- Secured House passage of H.R. 4901, the Scholarships for Opportunity and Results (SOAR) Reauthorization Act, which would reauthorize the DC Opportunity Scholarship program. Created in 2004 with bipartisan support, the program improves

and expands quality educational experiences in all of the District of Columbia's education sectors—public, charter, and nonpublic.

- In the Senate Labor-HHS appropriations bill, which passed out of committee, the Chamber successfully advocated for the reestablishment of the year-round Pell program. This program would allow a student attending an institution of higher education at least half time to receive a second Pell Grant in the same award year.
- In the House Labor-HHS appropriations bill, which passed the full committee, the Chamber successfully advocated for several higher education policy provisions, including prohibiting the Department of Education from moving forward with regulations defining “gainful employment” and “credit hour,” as well as regulations dictating how states must license institutions of higher education.

ELECTIONS AND GRASSROOTS ADVOCACY

Elections

- Endorsed 240 candidates for Congress, 95% of whom were elected or reelected.
- Implemented the most aggressive Get-Out-The-Vote platform in Chamber history which resulted in 55,000 actions including increased voter registration, downloading absentee ballots, and finding polling locations.
- Launched 46 ad campaigns in 15 states in order to engage, educate, and mobilize voters.
 - 38 ads in U.S. Senate races (72% success rate)
 - 8 ads in U.S. House races (100% success rate)
- Hosted 60 endorsement events with a federation member present at each.
- Raised a record-breaking \$400,000 for the U.S. Chamber PAC.

Grassroots

- Transitioned to a new multifaceted grassroots platform that enables greater social media integration, improved data analytics, and incorporation of voter files for online targeted messaging.
- Deployed a fully integrated online Get-Out-The-Vote platform to mobilize high propensity voters and the business community through early voting, absentee ballots, and Election Day tools through www.VoteforJobs.com and nearly 100 customized sites.
- Successfully maintained pro-business majorities for the 115th Congress by educating and engaging grassroots assets through targeted messaging and comprehensive voter education campaigns emphasizing digital outreach.
- Grew and mobilized the Chamber's grassroots audience to strengthen the business community's collective efforts in support of key legislative priorities—including fighting overregulation and defending our financial system.

ENERGY AND THE ENVIRONMENT

Carbon Regulations for Power Plants

- Successfully sought a stay of the Clean Power Plan from the U.S. Supreme Court on February 9, while the rule undergoes legal review.

Energy

- Successfully advocated for Senate passage of comprehensive energy legislation, S. 2012, the Energy Policy Modernization Act, on April 20 with a bipartisan vote of 85-12. S. 2012 would expedite the process for natural gas exports, improve energy efficiency, and prioritize infrastructure for the electric grid and energy storage. Also, the low- to no-cost, no-mandate energy efficiency provisions in S. 2012 would reduce energy consumption, advance the adoption of new technologies, produce energy savings for businesses and families, and encourage private sector job creation, creating a stronger and more durable American economy.
- Successfully advocated for Senate passage of a motion to move to conference with the House on S. 2012 on July 12 with a bipartisan vote of 84-3.

Permit Streamlining

- The Chamber worked successfully with the Office of Management and Budget (OMB) on implementing Title 41 in H.R. 22, the Fixing America's Surface Transportation (FAST) Act, which the president signed into law on December 4, 2015. Title 41 includes many of the permit streamlining provisions from S. 280, the Federal Permitting Improvement Act. With input from the Chamber and its members, OMB has begun implementing Title 41 of the FAST Act, including refining and populating the Federal Permitting Dashboard and establishing procedures for designating projects as covered under Title 41. Successful implementation of Title 41 of the FAST Act will help speed up the permitting process for infrastructure projects, enabling jobs to be created and the economy to grow.

Endangered Species Act Reform

- Successfully advocated for certain changes to the Endangered Species Act (ESA) petition listing process, including limiting petitions to one taxonomic species and requiring state notification of listing petitions. The U.S. Fish and Wildlife Service (FWS) finalized those changes in a rule published on September 27. The Chamber filed comments in May 2016 on FWS' proposal to reform the ESA petition listing process.
- Successfully advocated for the ESA listing decision of the Northern long-eared (NLE) bat. On January 14, FWS issued a final 4(d) rule on the NLE bat under ESA. The final 4(d) rule on the NLE bat addressed some of the concerns highlighted by business and industry during the rulemaking, including extending certain protections to more industries so that they can engage in various activities despite NLE bat's "threatened" listing.

Energy Savings Performance Contracts (ESPCs)

- Successfully advocated for including language in the 2016 Budget Resolution that addresses the scoring of ESPCs and Utility Energy Service Contracts (UESCs). Specifically, the Senate changed Congressional Budget Office scoring of ESPCs and UESCs to more closely track how OMB scores ESPCs and UESCs. The House Budget Committee agreed to undertake a study on the scoring of ESPCs and UESCs.
- The Chamber's ongoing efforts to support ESPCs and UESCs helped contribute to the administration's commitment to extend its ESPC and UESC initiative with a goal of \$2 billion in federal performance contracts for federal facilities for the next three years.

Energy Efficiency

- Successfully advocated for Senate passage of the Sensible Accounting to Value Energy (SAVE) Act amendment to S. 2012, the Energy Policy Modernization Act, on April 20 with a bipartisan vote of 66-31. The SAVE Act amendment would promote energy efficiency by allowing voluntary accounting of energy efficiency features in residential homes as part of the mortgage underwriting process.

Coal Combustion Residuals

- Secured enactment of legislation to ensure that coal ash waste continues to be regulated as a solid waste under the Resource Conservation Recovery Act (RCRA) Subtitle C, rather than as a hazardous waste. The Water Infrastructure Improvements for the Nation (WIIN) Act includes specific congressional authority enabling states to develop and enforce permitting programs that allow coal combustion residuals to be disposed of in standard sanitary landfills.

Chemical Management Reform

- Successfully advocated for passage of historic Toxic Substances Control Act (TSCA) reform legislation, which was signed by the president on June 22. The Frank R. Lautenberg Chemical Safety for the 21st Century Act is the first revision to TSCA in 40 years and the first major environmental reform legislation signed by a president since the 1990 Clean Air Act Amendments. In the second half of 2016, the Chamber monitored efforts to implement the new law and advocated for the Environmental Protection Agency (EPA) to follow the framework established in the law when it conducts risk assessments of priority chemicals.

Risk Management Program

- Successfully advocated for House passage of H.R. 5538, the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2017 on July 14 with a vote of 231-196. This included an amendment that would prohibit the use of funds to finalize, implement, administer, or enforce EPA's proposed rule titled the Accidental Release Prevention Requirements: Risk Management Programs Under the Clean Air Act, Section 112(r)(7) Risk Management Plan Rule.

- The Risk Management Plan (RMP) rule is supposed to be developed in conjunction with the Occupational Safety and Health Administration's (OSHA's) Process Safety Management (PSM) program to avoid inconsistencies, regulatory overlap, and confusion. The amendment would require EPA to take more time to understand how the RMP program would operate alongside the PSM program. It would also give regulated entities an opportunity to review and evaluate those programs to avoid regulatory overlap that adds compliance costs without an accompanying safety or security benefit.

Waters of the United States Definition Change

- Successfully sought a nationwide judicial stay of the EPA and Army Corps of Engineers revision of the Waters of the United States (WOTUS) definition while the rule undergoes legal review. The WOTUS definition rule is under review by several federal courts.

Stream Protection Rule—House Appropriations Riders

- Successfully advocated for House passage of H.R. 5538, the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2017 on July 14 with a vote of 231-196. The bill would prevent funds from being used to finalize or implement the proposed Stream Protection Rule.

Ozone National Ambient Air Quality Standard

- Successfully advocated for passage of H.R. 4775, the Ozone Standards Implementation Act on June 8 with a bipartisan vote of 234-177. H.R. 4775 would delay the deadlines for implementing the 2015 ozone standard (70 ppb) so that states can finish implementing the 2008 ozone standard (75 ppb) before expending resources on the 2015 standard.
- Successfully helped lead an advocacy effort in which more than 200 organizations, including 75 state and local chambers, sent an April 18 letter to congressional leadership highlighting the importance of addressing the implementation problems with the 2015 ozone standard.
- Successfully advocated for House passage of H.R. 5538, the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2017 on July 14 with a vote of 231-196. Also secured the inclusion of language in H.R. 5538 that would delay the deadlines for implementing the 2015 ozone standard (70 ppb) so that states can finish implementing the 2008 ozone standard (75 ppb) before expending resources on the 2015 standard.

FOOD AND AGRICULTURE

Food Labeling/Biotechnology

- Successfully advocated for passage of S. 764 in the House and Senate. The bill preempts state and local governments from requiring labels for foods that contain

genetically modified organisms (GMOs) and creates a national disclosure program for products containing GMO ingredients. The president signed the bill into law on July 29.

GOVERNMENT CONTRACTING

- Successfully advocated for the House and Senate Armed Services committees to exempt Department of Defense (DoD) contractors from the onerous labor law compliance rules under the Fair Pay and Safe Workplaces Executive Order.
- Successfully blocked the House Rules Committee from making in order an amendment to blacklist inverted U.S. companies from DoD contracts.

HEALTH CARE

Stand-Alone Health Reimbursement Arrangement (HRA) Exception

- Worked more than three years with congressional staff to get two new bipartisan identical compromise bills introduced. This compromise language was included in the enacted 21st Century Cures Act and allows small businesses (those not subject to the employer mandate) to offer stand-alone HRAs under certain conditions. This exception will help small businesses and provide an additional viable benefit to help employees pay for qualified medical expenses.

Mitigate the Burden of the Reporting Requirements

- Successfully advocated for an automatic extension on the due date for certain 2016 information reporting requirements for insurers, self-insuring employers, and other providers of minimum essential coverage under §6055 and §6056. Instead of being required to furnish the 2016 forms to individuals by January 31, 2017, employers and providers of coverage now have until March 2, 2017, to provide the forms.
- Achieved an extension to the short-term good faith transition relief that was offered in 2015 regarding penalties imposed on employers and insurers for failing to file an information return in a timely, accurate, or complete manner. This transition relief from penalties is provided to reporting entities that can show they made good-faith efforts to comply with the reporting requirements for 2016 for incorrect or incomplete information reported on the return or statement. This relief applies to missing and inaccurate taxpayer identification numbers and dates of birth, as well as other information required on the return or statement.

Consumer-Directed Health Plans

- On July 6, the House passed H.R. 1270, the Restoring Access to Medication Act, which would repeal the limitation on the use of funds from certain tax-preferred accounts for purchasing over-the-counter (OTC) medicines, as well as enhance the current rules on the use of Health Savings Accounts (HSAs).

Medicare Advantage

- Following the submission of comments in response to the Centers for Medicare & Medicaid Services (CMS) advance notice on 2017 changes to the Medicare Advantage program, CMS issued a final notice that, instead, phases in the bidding process for Medicare Advantage Employer Group Waiver Plans over a two-year period. This change will mitigate the cuts in the first year and may provide an opportunity for further changes.

Workplace Wellness Programs

- With the release of the final rule from the Equal Employment Opportunity Commission (EEOC) on the application of the Americans with Disabilities Act (ADA) and the Genetic Information Nondiscrimination Act (GINA), the employer community obtained some victories, including the right to use both carrots and sticks, the right to have outcome-based programs, and the ability to have spousal HRAs/biometrics with incentives.

IMMIGRATION AND TRAVEL

H-2B Policy Riders and Amendments

- Attached provisions to the Senate Labor-HHS Appropriations bill that would allow employers of H-2B workers to use private wage surveys, allow a temporary need for employment that can be up to one year in duration (as opposed to 9 months in the interim final rule, IFR, issued in April 2015), and prevent the Department of Labor (DOL) from exercising newly claimed audit authority over H-2B employers.
- Worked with the House DHS Appropriations Subcommittee to successfully pass an amendment including language that extended the returning worker exemption for H-2B workers from last year. If an H-2B worker entered the United States in 2014, 2015, or 2016, then he or she would not count toward the H-2B visa for fiscal year 2017, providing much-needed relief for our members.
- Worked with the House Labor-HHS Appropriations Subcommittee to include provisions that would allow employers to use private wage surveys and the practice of “staggered crossing,” giving employers more flexibility regarding when they choose to bring an H-2B worker into the United States. This helps employers in industries dependent on the weather because it allows them to bring the individual into the United States when they can make optimal use of that worker.
- While unsuccessful in getting the returning worker exemption in both the CR passed in September and the CR passed in December, we were able to ensure that all the other policy riders stayed intact. In December, we were successful in getting a vote on an amendment in the House Rules Committee that would have extended the returning worker exemption through April 28, 2017. That amendment failed by a vote of 4-7.

Global Entry Expansion in the United Kingdom

- The Chamber continued to push the Obama administration to expand the Visa Waiver Program and the Global Entry Program to include various countries. In July, the administration expanded the Global Entry Program to all nationals of the United Kingdom, provided that applicants pass all required security clearances. In doing so, the British government expanded the eligibility for U.S. citizens to use the Registered Traveler Program for easier entry into the United Kingdom.
- The Chamber was successful in seeing to it that the federal government expanded the use of Global Entry kiosks at nine additional airports in the United States in October 2016. This will enable international tourists arriving at several airports to have a more efficient travel experience when they enter the United States.

EB-5 Integrity Measure Package Introduced in the House of Representatives

- The Chamber was instrumental in getting Reps. Jared Polis (D-CO) and Mark Amodei (R-NV) to introduce a version of the EB-5 Integrity Act that Sens. John Cornyn (R-TX), Jeff Flake (R-AZ), Chuck Schumer (D-NY), and Thom Tillis ((R-NC) introduced at the end of 2015, reinforcing the need for commonsense measures to improve the reputation and operability of the EB-5 program.

EB-5 Regional Center Program Reauthorizations

- The Chamber was successful in getting two clean reauthorizations of the EB-5 Regional Center Program, one at the end of September 2016 and again in December 2016, which will allow the program to continue on in its current state until April 28, 2017.

New STEM Optional Practical Training (OPT) Rule Finalized

- The Chamber was successful in ensuring that the administration's proposed rule (which kept the STEM OPT Extension alive for employers who hire workers in the science, technology, engineering, and mathematics, or STEM fields) included much-needed clarity on the attestation language. The rule also provided much-needed process protections for employers regarding site visits and the termination of employment for STEM OPT workers.

Updated Immigration Myths and Facts Document Published

- The Chamber published an updated Myths and Facts document in conjunction with its April 19 event Increased Security and Prosperity: The Immigration Reform Imperative. The publication, as in the past, analyzed prevalent myths in the ongoing immigration debate and sought to set the record straight about the positive impact of immigration on the American economy.

DOJ Unfair Immigration-Related Employment Practices Proposal

- The Department of Justice sought to vest itself with vast new authority to investigate unfair immigration-related employment practices in August 2016, which had the potential to affect any Chamber member with more than four employees.
- The Chamber was successful in getting the comment period for the proposal extended from its initial 30-day period to 60 days. The Chamber organized several trade associations to provide thorough, substantive comments that outline the various ways the administration is acting outside of its authority to regulate in this space. The agency moved forward with a final rule despite our comments and the rule's provisions are set to go into effect on January 18, 2017. However, the Chamber and other trade associations are pursuing a potential litigation strategy to prevent this rule's implementation.

AC21 Rule Finalized

- The Chamber succeeded in pushing the administration to finalize this rule before the end of its term. It provides increased portability to H-1B visa holders. It also gives high-skilled workers certain grace periods—two 10-day grace periods as well as a 60-day grace period for people in certain visa categories—enabling skilled workers to seek new jobs.
- The regulation contains a provision for temporary work authorization for certain foreign nationals who have approved employment-based visa petitions but are stuck in the visa backlogs and are dealing with “compelling circumstances.”

Passage of Promoting Travel, Commerce, and National Security Act of 2016

- The Chamber was successful in getting this act passed at the end of 2016. The bill amended the criminal code to allow the United States to prosecute certain U.S. employees who engage in conduct in Canada that would constitute a federal criminal offense if the conduct had occurred in the United States. This was a necessary prerequisite for Canada to expand its preclearance efforts, which will improve the efficient movement of goods and people between Canada and the United States.

Publication of White Paper on How Companies Contract Out for Services

- The Chamber commissioned Stuart Anderson to compose a white paper on the reasons why companies contract out their non-core functions. This business practice has come under intense scrutiny, with many detractors claiming that businesses engage in these practices to replace American workers with cheap foreign labor. The white paper sets the record straight and highlights the many legitimate business reasons why companies hire outside firms to perform these functions.

APEC Business Traveler Card Finalized

- The Chamber had various conversations with administration folks trying to expand all the various trusted traveler programs, including the APEC Business Traveler Card. This rule was initially proposed in 2014, but in finalizing the rule, U.S. Customs and

Border Protection provided one key change that will help Chamber members who use this program. The initial period of validity for an APEC travel card was three years; in the final rule, which went into effect on December 23, 2016, APEC cards have an initial validity period of five years.

INTELLECTUAL PROPERTY

Promote high standards for the protection and enforcement of intellectual property (IP) through international policy bodies and trade mechanisms.

UN High Level Panel on Access to Medicines (UNHLP)

- In 2016, the Chamber's Global Intellectual Property Center (GIPC) raised the alarm on the creation of the UNHLP as a major challenge to the health care industry. The United Nation's final report *Promoting Innovation and Access to Health Technologies* was released on September 12, and recommends the wide-scale degradation of global IP rights.
- GIPC worked with the Hudson Institute to release the white paper *The Patent Truth About Health, Innovation, and Access*, taking issue with the UN High Level Panel work.
- The white paper called on governments to drastically restrict patentability of medical innovations; make liberal use of compulsory licenses to override patents; minimize the private sector role in the research and development of new cures; and put the United Nations above national governments in overseeing intellectual property rights.
- As a result of GIPC's efforts, the Chamber and the U.S. government announced strong opposition to the panel and its report. To get to that point, GIPC employed a multipronged approach with congressional leaders and the Obama administration. GIPC continues to dedicate its resources to combat UNHLP's negative impact on the global landscape of biopharmaceutical innovation.

10th Annual IP Attaché Roundtable

- GIPC hosted the 10th annual IP attaché roundtable bringing together 12 IP attaches posted in embassies and consulates around the world to discuss multilateralism on IP; innovation infrastructure in Brazil, Russia, India, and China; and challenges and opportunities for IP in emerging economies.

Transatlantic Trade and Investment Partnership (TTIP)

- GIPC, as co-chair of the Intellectual Property Working Group of the Business Council for Trans-Atlantic Trade, was at the forefront of efforts to cement the U.S.-Europe consensus in favor of IP through TTIP. By engaging negotiators in the United States and Europe, GIPC helped prioritize IP in TTIP, including reaffirming the joint commitment to existing, shared IP principles; working collaboratively to engage third-party countries; and advancing new IP standards in specific, targeted areas.

Special 301 Submission to United States Trade Representative (USTR)

- GIPC articulated IP-related challenges that U.S. innovators face in 17 key global markets and offered specific policy recommendations. GIPC called for USTR to maintain India's

2015 designation as a Priority Watch country, highlighted implementation shortcomings on specific IP obligations in free trade agreement partners, and discussed challenges to the U.S. domestic system and backsliding on IP multilaterally.

India

- Indian Ambassador Arun Singh participated in GIPC's June board meeting as part of its campaign to strengthen India's IP framework and build momentum for a constructive relationship with India.
- Leveraging work with domestic voices and Indian policymakers, GIPC focused on influencing new policy initiatives and working to eliminate harmful policy positions, such as restricting patents on computer-related inventions and mandating licensing norms for standard-essential patents.

China

- GIPC led efforts to advocate for improved IP protection in China through the U.S.-China IP Cooperation Dialogue, a team of influential U.S. and Chinese IP experts. GIPC held two rounds of discussions in January and May, which were widely attended by U.S. and Chinese government officials and featured in a TV segment on CCTV and in U.S. media coverage.
- GIPC filed an amicus brief in China's Supreme People's Court in support of trademark rights in the Michael Jordan case. The court decided in favor of Michael Jordan and adopted many of the legal arguments put forth in our brief.
- GIPC launched a yearlong research project in support of adopting patent linkage upon request of China's National People's Congress. The report is under consideration by China's leadership.

Trans-Pacific Partnership (TPP)

- GIPC worked to cultivate the conditions for a path forward on regulatory data protection for biologics in TPP, which leaves the agreement poised to move ahead if or when political circumstances permit.

Advocate for appropriate policies to maintain effective IP systems and rights in the United States.

IP Champions Gala Event

- On November 30, GIPC held the first IP evening gala event featuring MC James Rosen from Fox News Channel and "IP Champion" awardees: Sen. Orrin Hatch (R-UT), Mark McGrath of Sugar Ray and Billy Morrison of Billy Idol (including a musical performance), movie producer Bruce Cohen of *Silver Linings Playbook* and *American Beauty*, and actor Richard Kind of *Curb Your Enthusiasm*. Awards were given to Microsoft's "Make What's Next" campaign, Pfizer's Ibrance team for work on breast cancer research, the National IPR Center, U.S. IPEC Danny Marti, Barbara Kolm of the Austrian Economics Center, and Robin Bronk of the Creative Coalition.

Global Brand Council

- GIPC testified before the U.S. Senate Committee on the Judiciary regarding counterfeits and their impact on consumer safety. In his testimony, GIPC President and CEO David Hirschmann discussed new statistics released by the Organization for Economic Cooperation and Development (OECD) that calculates the total value of imported fake goods worldwide at \$461 billion.
- GIPC hosted an event in honor of World IP Day in conjunction with the Congressional Trademark Caucus. GIPC continues to work closely with Caucus Co-Chairs Sens. Chris Coons (D-DE) and Charles Grassley (R-IA) and Reps. Suzan DelBene (D-WA) and Randy Forbes (R-VA) to promote trademarks and the importance of purchasing authentic goods to ensure consumer safety.

Trade Secrets

- On May 11, the president signed the Defend Trade Secrets Act into law, fulfilling a major GIPC priority and significant win for the IP sector. GIPC led Chamber advocacy and broader industry coalition efforts in support of the bill, which created a federal civil cause of action to further combat the misappropriations of trade secrets. The bill passed with unanimous support in the Senate and virtually unanimous support in the House.

Trade Facilitation and Trade Enforcement Act of 2015

- GIPC joined other Chamber divisions to successfully advocate for passage of legislation (TF&TE of 2015, commonly known as Customs Reauthorization) to authorize key IP enforcement agencies and programs, including the National Intellectual Property Rights Coordination Center. On February 24, 2016, the president signed the bill into law, the culmination of more than seven years of advocacy and a significant win for GIPC and the IP industries.

Measuring the Magnitude of Global Counterfeiting

- GIPC published a new study *Measuring the Magnitude of Global Counterfeiting*, which that provides a breakdown of the share of physical counterfeiting for the 38 economies included in the International IP Index. GIPC testified in April 2016 before the Senate Judiciary Committee at a hearing on *Counterfeits and Their Impact on Consumer Safety*.

ICANN and IANA Transition

- GIPC worked to ensure that the conditions set forth by the National Telecommunications and Information Administration (NTIA) were met before the transition of the contract between NTIA and the Internet Corporation for Assigned Names and Numbers (ICANN) to the global, multistakeholder community for the management of technical internet functions. The transition was completed on September 30.
- GIPC's study of ICANN contractual compliance, which gauged industry satisfaction with ICANN's role in combating IP crime in the online environment, was completed in November 2016.

IPEC Joint Strategic Plan on Intellectual Property Enforcement (JSP)

- GIPC provided input to and worked closely with Intellectual Property Enforcement Coordinator (IPEC) Danny Marti on developing the Joint Strategic Enforcement Plan (JSP), a new three-year strategic plan to advance U.S. intellectual property enforcement and policy priorities from 2016 to 2019. JSP was released by the office of the IPEC on December 12. GIPC hosted a congressional staff briefing featuring Marti on the day of the release.

Build support from policymakers to protect strong IP rights by creating awareness of the correlation between IP and the generation of new innovations and growing economies in the United States and abroad.

Winning the Debate (WTD)

- WTD used its global campaign to promote IP and counter anti-IP rhetoric through domestic engagements with Congress, the media, and our network of third parties.
- GIPC recruited 150 state and local chambers of commerce for a group letter to Congress touting the benefits of IP to state jobs and the economy.
- GIPC united 36 conservative and free-market groups for a coalition letter to Congress focused on the benefits of free trade and IP protection. This effort provided cover to conservative lawmakers looking for a way to push back against the growing populist message on trade.
- GIPC's congressional "10-10-10" program continued to support and cultivate IP champions among members of Congress, both in state and in Washington, DC. GIPC partnered with state chambers and local IP-intensive businesses to host six events with key members, including Sen. Steve Daines (R-MT), Peter Roskam (R-IL), Rep. Dave Trott (R-MI), Rep. Tom Emmer (R-MN), Sen. Bill Cassidy (R-LA), and Rep. Evan Jenkins (R-WV).
- GIPC hosted communications leaders from the U.S. Senate Press Secretaries Association to highlight the benefits of IP at a reception at the Chamber.
- GIPC partnered with the Small Business and Entrepreneurship Council for the Capitol Hill event Intellectual Property & Entrepreneurs to build awareness of the necessity of IP for emerging technologies. Additional partners included the Association for Competitive Technology/The App Association and the IP Promotion and Piracy Prevention Caucus.

International IP Index

- GIPC released the 4th edition of the International IP Index titled *Infinite Possibilities*, ranking 38 economies on IP performance and emphasizing the positive benefits of investing in stronger IP laws. Following the D.C. release of the Index, GIPC hosted rollout events in seven countries, receiving more than 75 unique media hits. The Index is the preeminent source of comparative IP law data, with rollout events hosted by GIPC and its partners around the world.

INTERNATIONAL TRADE, INVESTMENT, AND REGULATORY POLICY

General

Miscellaneous Tariff Bill Reform

- Congress, overcoming an ideological debate that barred the enactment of Miscellaneous Tariff Bills (MTBs) for three years, approved legislation in June to reform the MTB process. Chamber advocacy helped overcome this impasse, which will allow U.S. manufacturers and other businesses to obtain relief from tariffs on select imports by mid-2017.

Trade Rules for Financial Services Data Flows

- Successfully advocated for the United States to end its discriminatory treatment of the financial services sector, which had previously been denied protection from forced localization of data under U.S. trade agreements. Advocacy by the Chamber and others led to revised U.S. positions in trade negotiations and other efforts.

IANA Transition and ICANN Accountability

- Successfully advocated for a transition plan for the Internet Assigned Numbers Authority (IANA) and enhancements to the Internet Corporation for Assigned Names and Numbers (ICANN) accountability that preserve the multistakeholder model of internet governance while preventing government capture. As part of these efforts, the Chamber engaged closely with ICANN senior leadership, submitted formal comments to the administration, and participated actively in ICANN meetings.

Digital Trade Officers at U.S. Embassies

- The Chamber spearheaded business community efforts urging the State and Commerce departments to designate digital trade officers at key U.S. embassies. The Chamber provided educational programs for prospective digital trade officers to ensure that issues such as localization and data flows are proactively addressed.

G7 and G20: Overcapacity, Antimicrobial Drug Resistance, and Infrastructure

- The Chamber advocated with some success for the G7 to review policies contributing to overcapacity in sectors such as steel and aluminum in some countries.
- The Chamber successfully advocated for the G7 to include private sector mechanisms among tools to address global health risks posed by antimicrobial drug resistance in its official policies.
- The Chamber contributed to establishing the G20's Global Alliance on Infrastructure Connectivity to ensure that large infrastructure projects funded by international donors enhance market access in developing countries through coordination with private sector participants.

World Trade Organization (WTO)

- **Information Technology Agreement (ITA) Expansion:** Advocated successfully for expanding the 1996 ITA to eliminate duties on \$1.3 trillion in information technology merchandise trade, including such products as medical equipment, GPS devices, video game consoles, software, and next-generation semiconductors. The expansion entered into force in July and could support an estimated 60,000 new U.S. jobs. Chamber efforts included direct outreach to officials in foreign capitals and in Geneva and an international communications campaign.

Country- and Region-Specific Actions

Brazil:

- **Brazil Ends State Oil Company Monopoly:** The Chamber-affiliated Brazil-U.S. Business Council advocated successfully for the enactment of a law that ended the exclusive right of Brazil's state oil company Petrobras to develop pre-salt oil blocks. The bill also makes Petrobras' decision to participate in the exploration of these fields' consortia optional.
- **ATA Carnet System:** The Brazil-U.S. Business Council successfully advocated for the implementation of the ATA Carnet System before the 2016 Olympic Games in Rio de Janeiro.
- **Beef Agreement With Brazil's Ministry of Agriculture:** The Brazil-U.S. Business Council successfully advocated for the U.S. Department of Agriculture to reach agreement with Brazil's Ministry of Agriculture, Livestock and Food Supply to allow bilateral trade in certain beef and beef products.

China

- **Timely, Science-Based Agricultural Biotechnology Approvals:** The Chamber's China Center advocated successfully for a commitment by China at the 2016 U.S.-China Strategic & Economic Dialogue (S&ED) in Beijing to revise its biotech regulations, consistent with outcomes from President Xi Jinping's state visit to the United States in September 2015. It also secured a commitment for China to complete agricultural biotechnology product approvals in a timely, ongoing, and science-based manner, following completion of assessments by China's National Biosafety Committee.
- **Supplemental Bilateral Investment Treaty (BIT) Text:** The Chamber's China Center advocated successfully for the introduction of supplemental text in recent BIT negotiations to address unique "characteristics" of the Chinese economy, including the prevalence of state-owned enterprises, data restrictions and localization requirements, lax transparency, and the prevalence of normative documents.
- **Renminbi (RMB) Trading and Clearing Capacity in the United States:** Efforts by the Chamber and the RMB Working Group co-chaired by Chamber President and CEO Thomas J. Donohue and former New York City Mayor Michael Bloomberg resulted in a bilateral commitment at the 2016 S&ED to expand RMB clearing and trading in the United States.

- **Secure and Controllable Technology Policies:** The Chamber's China Center advocated successfully for a delay in implementing China's secure and controllable insurance regulations. In April, the Chamber submitted comments to the WTO Technical Barriers to Trade Committee and developed with other business organizations a global, multiassociation letter to the Chinese government advocating against implementing the Insurance System Informatization Regulatory Requirements (draft). The draft would require procurement of secure and controllable technologies, use of domestic encryption, and localization of data in China by insurance and affiliated companies.
- **Pharmaceutical Regulatory Evaluation and Approval:** The Chamber's China Center advocated successfully for a commitment by China at the 2016 U.S.-China Joint Commission on Commerce and Trade (JCCT) to affirm that drug registration review and approval will not be linked to pricing commitments or require specific pricing information.
- **Domestically Produced Medical Devices:** The Chamber's China Center advocated successfully for a commitment by China at the 2016 JCCT not to link promotion of domestically produced medical devices to government procurement and to treat overseas brands and products manufactured overseas in a transparent, fair, and equitable manner.
- **Delinking Indigenous Innovation From Government Procurement:** The Chamber's China Center advocated successfully for a commitment by China at the 2016 JCCT to issue a State Council notice to delink indigenous innovation policy from government procurement in all local regions.
- **Soda Ash:** The Chamber's China Center advocated successfully for a commitment by China at the 2016 JCCT to include soda ash into excess capacity discussions.

Cuba: Easing Restrictions on Trade and Travel

- Through the Chamber-affiliated U.S.-Cuba Business Council, advocated successfully for a civil aviation agreement permitting more than 100 scheduled flights daily to the island by U.S. carriers, as well as additional moves to facilitate dollar transactions in Cuba and to further ease U.S. travel restrictions.

Egypt

- **Approval of IMF Loan:** The Chamber-affiliated U.S.-Egypt Business Council successfully advocated for the International Monetary Fund (IMF) to issue a \$12 billion loan to Egypt to support the Egyptian government's comprehensive economic reform plans. The IMF's loan signals an important step toward restoring economic stability and transitioning to a market economy in Egypt.

European Union

- **Privacy Shield:** The Chamber advocated successfully for adoption of the U.S.-EU pact to facilitate the transfer of data across the Atlantic, benefiting companies of all sectors. The Chamber directly advocated for the agreement before U.S. and European negotiators and key EU Data Protection Authorities, held numerous

briefings for members, and spearheaded multiassociation letters to President Obama and the heads of every EU member state. Also advocated successfully for congressional approval of the Judicial Redress Act, enactment of which was critical to implementing the Privacy Shield.

- **EU Digital Single Market (DSM):** Since the EU announced its DSM plans in 2015, the Chamber has led a cross-sectoral advocacy effort to ensure that the benefits of integrating Europe's online marketplace are shared by all firms, regardless of their national provenance. Following dozens of meetings with European officials, op-eds, and Chamber submissions to open requests for comment, DSM is proceeding in a manner more reflective of its priority of generating growth and jobs without discriminatory measures that risk stunting the market.
- **Revamped U.S.-EU Financial Markets Regulatory Dialogue (FMRD):** Helped lead advocacy efforts to reorganize the dialogue, calling for it to be put on a more productive, accountable, and transparent track.

Indonesia

- **Removal of Equity Caps on Foreign Film Production and Distribution:** Advocated successfully for foreign companies' right to own 100% of foreign film production and distribution in Indonesia. The liberalization was announced as part of Indonesia's revised "investment negative list" in February and reflects a recommendation in the Chamber's 2015 report on U.S.-Indonesia commercial ties.
- **Delay in the Halal Law Implementing Regulations:** Advocated successfully for a delay by the Ministry of Religious Affairs in promulgating the implementing regulations for the Halal Law, a requirement that all food, beverage, cosmetics, and medical products be certified as halal. The October 2016 deadline for establishing a certification framework was pushed back until the Ministry of Religious Affairs is able to address the many concerns raised by Chamber members. The Chamber is continuing to press for voluntary, rather than mandatory, certifications.

Mexico

- **Preinspection Border Pilot Studies:** With the goal of enhancing security, facilitating commerce, and using government resources more efficiently, the Chamber-organized U.S.-Mexico CEO Dialogue successfully advocated for cargo preinspection pilot programs to move forward at key U.S.-Mexico border crossings, including Laredo, Mesa de Otay, and, coming soon, San Jeronimo, Chihuahua.
- **Launch of Energy Council:** The CEO Dialogue advocated successfully for the launch of the U.S.-Mexico Energy Business Council, a binational business-to-business initiative to enhance cooperation on energy issues, address regulatory differences, and develop coordinated policies.

Myanmar:

- **Elimination of Sanctions:** Advocated successfully for the complete elimination of sanctions against the country under the International Economic Emergency Powers Act (IEEPA). Burdensome reporting requirements were eliminated, as well as

extensive list of specially designated nationals (SDNs) with which U.S. companies were prohibited from doing business.

- **Extension of GSP Privileges:** Advocated successfully for the inclusion of Myanmar as a beneficiary country under the U.S. Generalized System of Preferences (GSP). The administration announced the decision on September 15.

Philippines

- **Enhanced Information Communications Technology (ICT) Policy Coordination:** In cooperation with AmCham Philippines, advocated successfully for the Department of Information and Communications Technology Act, which established a Cabinet-level department of the same name to coordinate ICT-related policy in the Philippines. The new department and increased coordination of ICT policies in the Philippines was a long-standing objective of U.S. business.

Saudi Arabia

- **Accelerated Drug Approval Process:** The Chamber's U.S.-Saudi Business Program scored a major victory for the biopharmaceutical sector when the Saudi FDA announced that it will implement on February 1, 2017, a verification and abridged review process in which a product approved by the U.S. Food and Drug Administration and the European Medicines Agency will be approved in Saudi Arabia through a verification process and registered within 30 days of submission. If the product is approved by only one of these agencies, then approval in Saudi will be through abridged review and within 60 days of submission.

Turkey

- **Defeated Safeguard Tariffs for Mobile Devices:** Following a government investigation, the Chamber-affiliated U.S.-Turkey Business Council successfully advocated against proposed safeguard tariffs on imported mobile devices.
- **Law for Auto-Enrollment of Pension Plans:** The Chamber-affiliated U.S.-Turkey Business Council successfully advocated for auto-enrollment of workers 45-years-old and under into private pension plans to boost the country's savings rate and reduce Turkey's external imbalances.
- **Modified Intellectual Property Legislation:** The U.S.-Turkey Business Council submitted extensive comments on Turkey's draft patent law to the Turkish government, which contributed meaningfully to the final legislation that was approved by Turkey's Parliament on December 22.
- **Opened Dialogue to Improve Turkey's Postal Law:** The U.S.-Turkey Business Council advocacy encouraged the Turkish government to revisit a law requiring express delivery companies to contribute 2% of their revenue to a national postal fund. The issue was elevated to the agenda of Turkey's High-Level Investment Council to find a more business-friendly solution.

LABOR

EEOC's Initiative to Collect Compensation and Hours Worked Data From Employers

- The Equal Employment Opportunity Commission (EEOC's) made changes to its EEO-1 report that will require employers to report employee compensation and hours worked data beginning in 2018. We are still working to defeat the new reporting requirements and know that we have achieved at least the following beneficial changes for employers: (1) delayed initial reporting by six months and (2) moved the yearly reporting date to more closely align with the W-2 year, easing the administrative burden on employers. We also worked with House allies to secure a rider in the CJS appropriations bill to prohibit EEOC from moving forward with the changes.

DOL Persuader Regulation

- The Chamber was instrumental in obtaining a clarification from the Department of Labor (DOL) that the requirements of the new persuader regulation would not be applicable to contracts entered into before July 1 even if activities under those contracts occur after July 1. This clarification allows Chamber members with existing or long-standing relationships with counsel to potentially avoid some of the rule's reporting requirements.
- Working with the U.S. Chamber Litigation Center, our amicus brief filing in the Northern District of Texas helped secure a permanent nationwide injunction preventing the persuader rule from going into effect—a major victory for Chamber members.

Executive Order on Fair Pay and Safe Workplaces (Blacklisting)

- President Obama's Fair Pay and Safe Workplaces Executive Order (EO) requires federal contractors to make extensive disclosures about "violations" of 14 different labor laws they had over the previous three years. They must make these during the bidding process and every six months during the life of the contract. Violations are defined to include mere citations and unproven and unadjudicated allegations, thereby meaning that contractors could have their federal contracting status affected before they exhausted their due process rights.
- The EO makes substantive changes to the laws by adding new terms, such as levels of severity for violations not included in the statutes. After a rulemaking process in which the Chamber met with the Labor secretary, testified in a House hearing, and submitted comprehensive and exhaustive comments, final regulations from the FAR Council and guidance from DOL were issued on August 25.
- The Chamber continued leading the opposition to implementing the regulations and guidance by working with the Senate and House Armed Services committees to get language included in both bills that would eliminate or restrict the applicability of the EO in Department of Defense contracting actions, working with different appropriations committees to include riders or specific funding limitations to block

the regulations and guidance from taking effect, and working with congressional leaders to plan for the invalidation of the regulations and guidance under the Congressional Review Act in the next Congress.

- The Chamber brought together a coalition of interested groups to move forward on a legal challenge to the EO and the implementing regulations and guidance. The regulations and guidance are blocked from going into effect due to a Preliminary Injunction issued as the result of a separate challenge brought in federal court in Texas.

DOL Overtime Regulation

- On November 22, a federal district judge in Texas issued a preliminary injunction blocking the full overtime regulation from going into effect. The request for the preliminary injunction was made by a coalition of 21 states challenging the regulation alongside an action led by the Chamber with more than 50 business groups supporting. The decision relied on arguments made in the Chamber's suit. The federal government is appealing the preliminary injunction to the 5th Circuit Court of Appeals, with briefing scheduled to conclude at the end of January and oral argument to follow. Still pending at the district court is the request by the Chamber's suit for summary judgment, which would result in a permanent injunction. If this is issued, it will replace the preliminary injunction as the decision under appeal. How the Trump administration will handle this appeal is not known, and there is no indication whether it will pursue a replacement rulemaking.
- On May 18, DOL released its final overtime regulation. If the rule had gone into effect, it would have increased the minimum salary threshold for exemption from \$23,660 per year to \$47,476 per year (\$913 per week). The salary threshold would have increased every three years and be pegged to the 40th percentile of the lowest income region of the country (currently, the South but including Virginia, Maryland and the District of Columbia). Similarly, the compensation requirement needed to exempt highly compensated employees would have increased to \$134,004 per year, up from \$100,000 per year and been indexed to the annualized value of the 90th percentile of weekly earnings of full-time salaried employees. The regulation was to have taken effect on December 1, 2016.

Appropriations

- The House Appropriations Committee approved its Labor, Health and Human Services funding bill for fiscal year 2017, which contains many of the Chamber's labor and immigration policy rider requests. This includes the following provisions:
 - Prohibits DOL's fiduciary rule from going into, or having any, legal effect.
 - Prohibits DOL from using funds to implement, administer, or enforce its changes to the overtime rules.
 - Prohibits DOL from using funds to establish an Office of Labor Compliance as set forth in the Fair Pay Safe Workplaces Executive Order.

- Prohibits the National Labor Relations Board (NLRB) from using funds to implement or enforce its ambush elections rule.
- Prohibits NLRB from using funds to apply its *Specialty Healthcare* decision (“micro” bargaining units).
- Prohibits NLRB from using funds to apply its *Browning-Ferris* decision (joint employer).
- Prohibits NLRB from using funds to issue a regulation or directive relating to use of electronic voting in union elections.
- Authorizes use of validated third-party private wage surveys, which allow employers to determine the prevailing wage for H-2B workers. This provision protects both workers and small businesses to ensure that the fairest wage is being paid.
- Provides employers with the discretion to stagger their hires to those peak times in the season when those workers have the maximum impact on sustaining American jobs. This is very important in fields where work is dependent on the weather, particularly landscaping, forestry, and seafood processing.
- The Chamber worked to limit funding levels of various office and agencies as follows:
 - **Wage and Hour Division:** \$215.5 million (\$12 million less than enacted in fiscal year 2016 and \$61 million less than requested for fiscal year 2017).
 - **Occupational Safety and Health Administration (OSHA):** \$534.4 million (\$18 million less than enacted in fiscal year 2016 and \$60.5 million less than requested for fiscal year 2017).
 - **Office of Federal Contract Compliance Programs (OFCCP):** \$100.5 million (\$4.9 million less than enacted in fiscal year 2016 and \$13.6 million less than requested for fiscal year 2017).
 - **NLRB:** \$215 million (\$59 million less than enacted level in fiscal year 2016 and \$59.7 million less than requested for fiscal year 2017).
- These reductions in the administration’s funding requests can be a proxy for other substantive policy changes since the funding requests are often tied to increases in enforcement efforts or specific rulemakings.
- The report accompanying the Labor-HHS bill made several points that reinforced Chamber positions concerning the Wage and Hour administrator’s interpretation relating to joint employment under the Fair Labor Standards Act (FLSA), OSHA’s enforcement-centric approach to improving workplace safety, and OFCCP’s overreliance on statistical evaluations, lengthy investigations, and audit selection methods.
- The federal government is operating under a Continuing Resolution (CR) that will fund it through April 28, 2017. After that, there will need to be either some version of actual appropriations legislation (an omnibus, or some combination of bills) or another CR. If an appropriations package is pulled together, the riders discussed in this section could be included.

LEGAL REFORM

Asbestos

- Secured enactment of asbestos trust transparency legislation in two states: Tennessee and Utah.
- Secured reintroduction of the Furthering Asbestos Claim Transparency (FACT) Act, which would discourage fraudulent claims with Section 524(g) asbestos bankruptcy compensation trusts in both the House and the Senate (H.R. 526, S. 357). The House passed the bill on January 8, and the Senate held a hearing on February 3.
- Secured introduction of the Enhancing United States Trustee Oversight Act (H.R. 5618) to allow audits of bankruptcy trusts by the Office of the United States Trustee.

Class Action Reform

- Secured House passage of the Fairness in Class Action Litigation Act (H.R. 1927), which would require that class members experience the same injury as the named class plaintiff in order to diminish frivolous class action litigation.

Communications

- Launched the *Northern California Record* and the *Florida Record* to report on legal issues in these two troubling regions.

Congressional Oversight

- Successfully implemented efforts urging the House Judiciary Committee and other congressional committees to engage in oversight activities and hearings on the U.S. civil justice system. Key areas included class action and lawsuit abuse, asbestos litigation, third-party litigation funding, alternative dispute resolution and the preservation of arbitration. It also included overenforcement, such as agencies urging that settlement amounts from companies go to outside activist third-party groups. In total, the U.S. Chamber Institute for Legal Reform (ILR) testified at or helped coordinate five congressional hearings in 2016.

False Claims Act

- Supported a blue ribbon panel convened by the Ethics and Compliance Initiative (ECI) that proposed elements for “gold standard” compliance programs—a critical element of ILR’s False Claims Act reform proposal. Former Deputy Attorney General Larry Thompson testified in support of the ECI proposal at a House Judiciary Committee hearing.

Fraudulent Joinder

- Secured House passage of the Fraudulent Joinder Prevention Act, which aims to prevent plaintiffs’ lawyers from abusing the law to keep cases in plaintiff-friendly state courts that should be in federal court.

International Issues

- Secured improvements to the class action provisions in the European Union's General Data Protection regulation.

Lawsuit Abuse

- Secured House passage of the Lawsuit Abuse Reduction Act, which would deter the filing of meritless legal claims and thereby help curb abusive litigation practices.

Overenforcement

- Spotlighted the problem of overenforcement by federal and state officials with a symposium co-hosted by the National Association of Criminal Defense Lawyers (NACDL), featuring comments by Sen. Orrin Hatch (R-UT), House Judiciary Committee Chairman Bob Goodlatte (R-VA), and former Deputy Attorney General David Ogden.
- Supported a Federalist Society symposium on "The Limits of Federal Criminal Law." During the event, Assistant Attorney General Leslie Caldwell participated in a discussion with white collar defense lawyers who represented corporate defendants, including FedEx and Vascular Solutions, that were cleared this year in controversial federal prosecutions.

State Attorneys General

- Secured passage of state attorneys general contingency fee transparency legislation in West Virginia.

State Reforms

- Secured passage of limits on abusive lawsuit lending in Indiana and unclaimed property enforcement in Arizona.

Voter Education

- Conducted successful voter education efforts in multiple state Supreme Court and attorney general contests.

NATIONAL SECURITY AND EMERGENCY PREPAREDNESS

Global Supply Chain, Customs, and Trade Facilitation Initiatives

Customs Reauthorization: Signed Into Law

- On February 24, President Obama signed the Trade Facilitation and Trade Enforcement Act (Customs Reauthorization), securing more than 20 victories for the Chamber and its members. These victories included numerous items on trade facilitation, border modernization, and intellectual property rights (IPR), from raising de minimis to the creation of the National Intellectual Property Rights Coordination Center.

De Minimis Value Rises from \$200 to \$800

- U.S. Customs and Border Protection announced in March the raising of de minimis value for low-valued imports from \$200 to \$800, thus removing all duties, tariffs, and customs fees. It is a direct result of the Customs Reauthorization and is a large win in the fight to simplify trade. While this was a long, hard fought battle, we are still encouraging our trade partners to take similar steps.

Preclearance Legislation

- Secured enactment of the Promoting Trade, Commerce, and National Security Act of 2016, which solves outstanding legal issues related to preclearance between Canada and the United States. The bill's passage is a welcome victory for both countries, and reflects a necessary step toward safeguarding future expansion of preclearance programs. This is a major victory for our efforts in the Beyond the Border Agreement, and the ability to expand a pro-business, pro-security program without having an impact on appropriations.

Executive Order on Trade Facilitation

- The Chamber helped develop and supported the president's executive order (EO) on Trade Facilitation that brings together the 47 U.S. regulatory agencies with a role in international trade into a single window. The EO forces these government agencies to harmonize regulations, streamline trade processes, and completely digitize trade procedures. The Chamber has a seat on the Border Interagency Executive Council (BIEC) and continued engaging on the deliverables through year-end. The government agencies delivered, on a basic level, the single window system in accordance with the December 31 deadline. While the new system is a victory, the Chamber will continue to push for program upgrades, data simplification, regulatory modernization, and continuous improvement.

Trade Facilitation Agreement Ratification

- The Chamber continues to press members of the World Trade Organization (WTO) to ratify the Trade Facilitation Agreement (TFA). The year began with only a handful of ratified countries and has continuously picked up support with more than 100 countries now ratified and entry into force expected soon. TFA is a groundbreaking initiative designed to make trade across borders easier, especially for small and medium-size companies. Implementing TFA has the potential to increase global merchandise exports by up to \$1 trillion annually, according to the WTO's World Trade Report.

U.S.–India Commitment on TFA-Plus

- In October, the Chamber, in partnership with the U.S.-India Business Council and the Federation of India Chambers of Commerce and Industry, hosted a two-day workshop on the implementation of TFA in New Delhi, India. The goal is to go beyond TFA and push toward a TFA Plus to ensure smart and commercially meaningful implementation of the agreement. The private sector in both countries will finalize a road map for each country to exceed the standards of TFA.

Global Alliance for Trade Facilitation

- The Chamber, working in partnership with the Center for International Private Enterprise, the World Economic Forum, and the International Chamber of Commerce, created a new public-private sector partnership, the Global Alliance for Trade Facilitation. The goal of the Alliance is to promote accountability in implementing TFA. The Alliance rolled out pilot programs in four countries, Ghana, Kenya, Columbia, and Vietnam.

U.S. Chamber Hosted 4th Annual Global Supply Chain Summit

- On May 18, the Chamber hosted its 4th Annual Global Supply Chain Summit. The summit's theme was *Integrating Innovation*, focusing on the future of global supply chains and what issues will matter 3, 5 and 10 years from now. Topics discussed ranged from drones and 3D printing to border modernization, trade, e-commerce, SMEs, infrastructure, and cybersecurity.

Travel and Tourism

Transportation Security Administration Budget Issues and Reform

- In July, secured enactment of the Federal Aviation Administration (FAA) reauthorization with bipartisan support. The legislation included the Chamber's priorities for modernizing the Transportation Security Administration (TSA), including the PreCheck Expansion Act, the Checkpoint Optimization and Efficiency Act, and reforms focused on the creation of the Checkpoint of the Future. These priorities, coupled with the significant funding and resources the Chamber fought for are a good start to solving the agency's long-term problems.

Cybersecurity

White House Cyber Commission

- The presidential Commission on Enhancing National Cybersecurity released its report on securing and growing the digital economy in December. The commission's priorities included several Chamber recommendations:
 1. Maintaining momentum of the National Institute of Standards and Technology (NIST) Framework for Improving Critical Infrastructure Cybersecurity.
 2. Identifying and reducing the cyber regulatory burden on the business community.
 3. Examining ways to boost adherence to international norms and deterrence.

Modernizing Government Technology Act of 2016 (MGT Act)

- In September, the Chamber and other industry groups helped push passage of H.R. 6004, the MGT Act in the House. Many parts of the federal government's information technology infrastructure are very outdated. Obsolete technology systems are inefficient and especially susceptible to cyberattacks, which puts citizens' personal information at risk.

The Cybersecurity Information Sharing Act of 2015 (CISA)

- On June 15, 2016, the Chamber testified before a House Homeland Security Committee subcommittee on CISA. The Chamber said that the CISA cyber threat-sharing program is off to a good start and that final CISA and Automated Indicator Sharing (AIS) implementation guidance documents that were finalized in mid-June received favorable reactions from industry and some in the privacy community. The Chamber negotiated constructively with the departments of Homeland Security (DHS) and Justice (DOJ), which authored the guidance, to clarify the protections for private-to-private information sharing.

SEC Mandate Amendment Blunted

- In early June, the Chamber blunted a misguided amendment on cyber and corporate governance. The amendment to the Senate defense bill (S. 2943) would create a new corporate governance mandate and disclosure requirements without any hearings or examination of the implications of the policies on investor protection, competition, and capital formation. The SEC is already assessing how to modernize board disclosures and should be allowed to progress without the amendment moving forward. Instead of adopting this amendment, the Chamber believes that all stakeholders, especially law enforcement and security agencies, should work together to address the underlying cybersecurity issues.

Administration Agrees to Renegotiate Export Control Language on ‘Intrusion Software’

- In March, the administration—at the strong urging of industry—said that it “proposed in this year’s Wassenaar Arrangement to eliminate the controls on technology required for the development of intrusion software. The Chamber worked with several companies and associations to persuade the Bureau of Industry and Security (BIS) to reconsider its proposed rule on so-called intrusion software and surveillance items under the 2013 Wassenaar Arrangement (WA). The Chamber argued that BIS’ proposal is extraordinarily broad and the export licensing requirements are unreasonably stringent. Negotiations with WA officials are ongoing.

Collaborations

- Launched the Chamber’s Global Information Security Working Group—a joint effort with the International Affairs Division’s Center for Global Regulatory Cooperation (GRC)—to tackle the EU cybersecurity directive.
- Collaborated with the National Telecommunications and Information Administration (NTIA) on the agency’s multistakeholder process concerning vulnerability research disclosure and Internet of Things (IoT) security upgradability and patching.
- Shaped, in cooperation with Senate Intelligence Committee staff, S. 3017, the Intelligence Authorization Act for fiscal year 2017. The bill includes section 310, Intelligence community assistance for nationally significant critical infrastructure, which the Chamber supported.

- Lobbied the House in support of H.R. 5064, the Improving Small Business Cyber Security Act of 2016. It passed Congress in December as part of the annual defense bill (P.L. 114-840).
- Pushed the Information Sharing and Analysis Organization (ISAO) Standards Organization against calling for the certification of ISAOs in operating guidance that it issued in September. The ISAO group agreed to industry's request.
- Engaged NIST on the agency's Baldrige Cybersecurity Initiative. Chamber members generally support this effort.
- Advocated the Chamber's views to the British Standards Institution (BSI) regarding appropriate third-party certification to the NIST cybersecurity framework.

Chamber's 2016 Cybersecurity Campaign

- Building on the success of the Chamber's education and awareness campaign, the Chamber kicked off its 2016 campaign in Detroit, Michigan, in March. The Chamber partnered with state and local chambers, the Obama administration, members of Congress, law enforcement, and universities to host these regional events. Additional events were held in San Antonio, Texas (June 28), and in Schaumburg, Illinois (July 12). The campaign culminated with the Chamber's 5th Annual Cybersecurity Summit at the end of September.

The Chamber spoke at several cybersecurity events organized by state and local chambers of commerce (e.g., Appleton, Wisconsin; Augusta, Georgia; Oak Brook, Illinois; Indianapolis, Indiana; Irving, Texas; and Longview, Texas). In partnership with the Chamber's Middle East team, hosted the first-ever international cybersecurity forum in Dubai, U.A.E.

Cyber Leadership Council

- After concluding a successful first year, the Chamber's Cyber Leadership Council began its 2016-2017 term this summer. Former gov. Tom Ridge chaired the July meeting and White House Cybersecurity Coordinator Michael Daniel provided an assessment from the White House.

Leading businesses recognize that to maintain a strong and resilient economy, the Chamber must help protect against the threat of cyberattacks by smartly shaping government policy at home and abroad. In 2015, the Chamber announced the formation of its Cyber Leadership Council. The council streamlines the Chamber's Cybersecurity Working Group (CWG) by providing strategic direction. The council, made up of about 30 companies and associations, influences timely policy decisions and shapes Hill advocacy and administration engagement. Council members leverage their leadership over policies that the CWG addresses and the direction it takes.

Cyber Incident Coordination Roundtable

- In July, White House Cybersecurity Coordinator Michael Daniel asked the Chamber to host a roundtable with members of the business community to discuss the president's

Presidential Policy Directive on cyber incident coordination. The August roundtable brought business leaders together with senior administration officials to discuss the roles and responsibilities of public and private sectors during significant cyber incidents.

Chemical Security

Steering EPA's Risk Management Program (RMP) in the Right Direction

- On July 14, the Chamber successfully advocated for House passage of H.R. 5538, the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2017, including an amendment that prohibits the use of funds to finalize, implement, administer, or enforce EPA's problematic rulemaking Accidental Release Prevention Requirements: Risk Management Programs Under the Clean Air Act. The RMP rule, issued in March, is supposed to be developed in conjunction with the Occupational Safety and Health Administration's (OSHA's) Process Safety Management (PSM) program to avoid inconsistencies, regulatory overlap, and confusion. But it has not. The Chamber opposes regulatory mandates that add compliance costs without accompanying safety and security benefits.

NATIVE AMERICAN ENTERPRISE INITIATIVE (NAEI)

- Ensured that contract support costs (CSCs) due to tribes under the Indian Self-Determination and Education Assistance Act (ISDEAA) remain a lump-sum appropriation throughout the appropriations process to ensure that the administration continues to pay the full CSCs due to tribes.
- Secured a rider in the House Labor-HHS appropriations bill prohibiting funding for the enforcement of the National Labor Relations Act against any Indian tribe, including any enterprise or institution owned and operated by an Indian tribe and located on its Indian lands.
- Saw the enactment of the Indian Trust Asset Management Reform Act (H.R. 812), a bill heavily lobbied by the Chamber during the 113th Congress.
- Saw the enactment of the NATIVE Act (S. 1579), an Indian tourism bill the Chamber was active in amending before passing the Senate.
- Effectively lobbied tribal energy bills in the House and the Senate. In the House, the Native American Energy Act (H.R. 538) was passed. In the Senate, the Indian Tribal Energy Development and Self-Determination Act Amendments of 2015 (S. 209) passed twice: once as a stand-alone and the second time as a provision of S. 2012. Ultimately, a compromise Indian energy bill was not enacted.
- The Chamber's Coalition for Tribal Sovereignty communicated to Congress five times on the Tribal Labor Sovereignty Act (TLSA). There are more than 140 tribes in the coalition. The Chamber's leadership of this coalition enabled multiple mentions in LAW360 and POLITICO on the work NAEI and the coalition have undertaken to ensure passage of TLSA in addition to addressing a Carcieri Fix.

PENSIONS

Extension of temporary guidance pertaining to the nondiscrimination rules for frozen defined benefit plans

- At the Chamber's urging, the IRS added a year to the temporary nondiscrimination relief previously provided to certain soft frozen defined benefit plans. The relief will be available through plan years beginning before 2017, instead of through plan years beginning before 2016.

Withdrawal of provisions relating to Qualified Supplemental Executive Retirement Plans in Proposed Nondiscrimination Testing Rules

- These provisions would have unfairly burdened our small business members by dramatically increasing nondiscrimination testing costs for many small business retirement plan sponsors. After meeting with small business members of the Chamber, Treasury and the IRS withdrew the provisions before the end of the proposal's comment period.

The House Appropriations Committee Fiscal Year 2017 Appropriations Bill to Include Rider on Definition of Fiduciary

- The House Appropriations committee included in its fiscal year 2017 Labor, Health and Human Services, and Education Appropriations bill, a provision that would nullify the effective date and legal effect of the Department of Labor's (DOL's) regulation altering the definition of a fiduciary under ERISA. The Chamber advocated for this rider.

Congress Votes to Overturn Fiduciary Rule

- In April, DOL finalized its new fiduciary rule, which discriminates against small businesses and subjects financial advisers to significant new liability, including private right of action. The Chamber advocated for Congress to use its authority under the Congressional Review Act to overturn the rule, and both the House and the Senate approved the resolution within the 60-day time frame, sending the legislation to the president. The legislation was later vetoed.

Simplification of Reporting Information Required by the Pension Benefit Guaranty Corporation (PBGC)

- In 2015, PBGC attempted to make changes in reporting requirements under ERISA section 4010 that would have added additional burdens to certain plan sponsors. At the urging of the Chamber and others, PBGC changed the requirements to ease the administrative burdens and decrease the number of plan sponsors impacted.

Retirement White Paper Released

- In February, the Chamber issued *Private Retirement Benefits in the 21st Century: Achieving Retirement Security*. This paper follows a white paper published by the Chamber in 2012, *Private Retirement Benefits in the 21st Century: A Path Forward*. It builds on the successes of those earlier proposals while focusing on the evolving needs of workers

and employers as demographics change in the years to come. The paper was released at a Chamber event highlighting some of the recommendations and enabled feedback from the administration, Capitol Hill, and other interested parties.

Formation of the Retirement Security Council

- In July, the Chamber created the Retirement Security Council, which promotes the recommendations in the Chamber's white paper *Private Retirement Benefits in the 21st Century: Achieving Retirement Security*, by focusing on a proactive agenda centered on specific projects over the next 12 months.

REGULATORY AFFAIRS

Report on Impact of New Regulations on Brick Industry

- In February, the Chamber released a new regulatory report, *Regulatory Indifference Hurts Vulnerable Communities*. The report calls on federal agencies to look beyond their assumptions about the benefits of rules and understand the impact that their rules have on real people in vulnerable communities who lose their jobs or businesses because of a one-size-fits-all regulation. Based in part on the information in the study, on March 3, the House passed H.R. 4557, the Blocking Regulatory Interference from Closing Kilns (BRICK) Act, with a bipartisan vote of 238-163.

Report on Deteriorating Relationship Between EPA and the States

- In August, the Chamber released the report *The Growing Burden of Unfunded EPA Mandates on the States*. It makes legislative recommendations for meaningful reforms, including strengthening the Unfunded Mandates Reform Act and enacting the Regulatory Accountability Act.

Federal Agency Evaluations of Job Loss and Job Displacement Owing to Regulations

- The Chamber has consistently called on EPA to follow a requirement in environmental law for the agency to continuously evaluate job losses and job displacements resulting from its regulatory programs. Since 1977, EPA has refused to conduct such an employment evaluation. Significantly, in a court case called *Murray Energy Corporation v. EPA*, a federal judge ruled on October 17 that EPA failed or refused to comply with this law for 35 years. The court ordered EPA to fully comply with the law and conduct the employment analysis for the coal industry and for industry in general. The court further found that due to the importance of environmental regulations to our economy, and the undisputed widespread employment effects suffered by the coal industry, it would be an abuse of discretion for EPA to refuse to conduct the job loss impacts due to its regulations. The Chamber assisted the plaintiff in preparing background information for the *Murray Energy* case.

Permit Streamlining

- The Chamber worked successfully with the Office of Management and Budget (OMB) on the implementation of Title 41 in H.R. 22, the Fixing America's Surface Transportation (FAST) Act, which the president signed into law on December 4, 2015. Title 41 includes many of the permit streamlining provisions from S. 280, the Federal Permitting Improvement Act. With input from the Chamber and its members, OMB has begun implementing Title 41 of the FAST Act, including refining and populating the Federal Permitting Dashboard and establishing procedures for designating projects as covered under Title 41. Successful implementation of Title 41 of the FAST Act will help speed up the permitting process for infrastructure projects, enabling jobs to be created and the economy to grow.

Regulatory Accountability Act

- Successfully advocated for passage of H.R. 185, the Regulatory Accountability Act (RAA), by the House on January 13, 2015, with a vote of 250-175. The bill would modernize the 70-year-old Administrative Procedure Act and bring additional transparency and agency accountability to the regulations development process. On April 20, Chamber Senior Vice President Bill Kovacs testified before the full Senate Homeland Security and Government Affairs Committee on The Administrative State: Examination of Federal Rulemaking. He explained how Congress can regain control of agency rulemakings through passage of RAA.

Regulatory Analysis

- Successfully reviewed and analyzed the economic cost and benefit impact for more than 100 regulatory matters affecting labor, employee benefits, health care, energy, environment, capital markets, occupational safety, transportation, agriculture, technology, and food production issues of concern to Chamber members. Significant additional costs were found and benefit claims were greatly exaggerated for many regulations reviewed. The Chamber surveyed affected member companies to develop an independent estimate of compliance costs for proposed expansion of EEOC employment report requirements.
- When new regulations were not stopped, Chamber input has helped achieve modifications that reduced compliance cost burdens.
- Regulatory agencies' errors and omissions in economic analyses identified over the past five years will be useful for future efforts to rescind or modify undesirable regulations in 2017.

Sue and Settle Reform

- The Chamber's May 2013 report *Sue and Settle: Regulating Behind Closed Doors* documented the abuses of the sue and settle process. One of the most significant of these abuses involves agreements between environmental groups and the U.S. Fish and Wildlife Service (FWS) over candidate species to be listed under the Endangered Species Act. In May and July 2011, FWS agreed to 2 consent decrees that together

required the agency to propose adding more than 720 new species to the endangered list. FWS now acknowledges that sue and settle agreements requiring “mega-listings” of candidate species create such logistical problems that the rules governing listing petitions required changing.

- Accordingly, on September 27, FWS revised the process for public petitions to list candidate species. The final rule requires that a petition for listing must be limited to just one species, and that each petition must have sufficient scientific data to support a listing for that species. This action represents the first concrete action that Congress or a regulatory agency has taken to exert some degree of control over the sue and settle process.

SMALL BUSINESS

- Successfully lobbied for increased funding of \$9.32 million for the Office of Advocacy in the Senate fiscal year 2017 appropriations bill.
- Successfully lobbied for fiscal year 2017 appropriations increases in the House and the Senate appropriations bills for the SBA’s Small Business Development Centers or SBDCs, (\$120 million, House and \$125 million, Senate). State and local chambers depend on robust SBDC programs since many are housed in chamber buildings and the funding helps entrepreneurial development programs for existing and potential members.
- In both the House and the Senate fiscal year 2017 appropriations, we successfully obtained increases in funding levels of \$20 million for State Trade and Export Promotion (STEP) grants under section 1207 of P.L. 111-240 and maintained full funding at \$12.3 million for the Veterans Outreach, which includes the Veterans Boosts to Business program.
- The Chamber successfully advocated for increases in lending authority for the SBA 7(a) lending program in both the House and the Senate fiscal year 2017 appropriations bills in the amount of \$28.5 billion.

TAXES

- Successfully ensured that the pressing need for comprehensive tax reform remains on the nation’s policy agenda by continuing to advocate for and engage with relevant leaders on tax reform proposals, such as on the House GOP’s comprehensive reform proposal and Senate Finance Committee Chairman Orrin Hatch’s (R-UT) integration proposal.
- Successfully advocated for enactment of the Internet Tax Freedom Act, legislation banning federal, state, or local taxes on broadband access.
- Successfully advocated for House passage of H.R. 2315, the Mobile Workforce State Income Tax Simplification Act of 2015.
- Successfully advocated to defeat Schatz amendment to S. 2012, the Senate Energy Bill, subjecting traditional energy producers to industry punitive tax increases.

- Successfully advocated for reduced regulatory burdens in the final §385 debt-equity rules. The final rules offer significant relief for U.S. multinational groups and offer some relief for foreign multinational groups. The biggest impact is the reduced universe of issuers subject to the rules.

TELECOMMUNICATIONS & E-COMMERCE

Privacy

- Successfully advocated for passage of H.R. 699, the Email Privacy Act, through the House with a vote of 419-0 on April 27.
- Submitted comments in June to the Federal Communications Commission (FCC) opposing its proposed broadband privacy rule and requesting that it adopt an approach similar to that followed by the Federal Trade Commission (FTC). FTC requires up-front consumer consent for only sensitive data. In October, FCC adopted an approach similar to that of the FTC's but used a more expansive definition of sensitive data.
- In June, hosted a widely attended event, Eye on Privacy: The State of Data Policy, with a panel including the former Department of Homeland Security Chief Privacy Officer.
- The Chamber successfully lobbied to prevent a version of S. 1788, the SAFE KIDS Act, which would have expanded FTC rulemaking authority over educational technology from being marked up by the Senate Committee on Commerce, Science, and Technology.
- The Chamber participated in the National Telecommunications & Information Administration's (NTIA's) multistakeholder process on private unmanned aircraft and voted to support best practices regarding privacy, transparency, and accountability.

Broadcast

- Submitted comments opposing FCC's proposed set-top box rule. A significant bipartisan bloc of congressional members opposed the proposed rule and at least one Democratic FCC commissioner stated publicly in a hearing that the proposal was flawed and needed reworking. The Chamber successfully pushed to prevent FCC from adopting a final rule in 2016.

Broadband

- Successfully advocated for House passage of H.R. 2666, the No Rate Regulation of Internet Access Act.

TRANSPORTATION

Highways and Public Transportation

- Successfully achieved trucking hours of service permanent fix provisions (Sec. 108) in H.R. 2028, Further Continuing and Security Assistance Appropriations Act, 2017.

Water Infrastructure

- Achieved passage of conference report S. 612, the Water Infrastructure Improvements for the Nation (WIIN) Act. The conference report includes the Water Resources Development Act (WRDA), which authorizes port, waterway, and flood protection improvements for the country. The WIIN Act also includes the Water and Waste Act of 2016 to help communities meet the requirements of the Safe Drinking Water Act and authorizes state regulation of coal ash.

Aviation

- Successfully achieved passage of H.R. 636, the FAA Extension, Safety, and Security Act of 2016, now Public Law 114-190. This extension will maintain current Federal Aviation Administration (FAA) programs through September 30, 2017.

U.S. CHAMBER TECHNOLOGY ENGAGEMENT CENTER (C_TEC)

Internet of Things (IoT)

- In January, conducted focus groups composed of Washington, D.C.-based policy experts on their perceptions of IoT. Found that despite the lack of understanding of IoT as a concept, there is, in fact, reasonable familiarity with specific IoT products, devices, and services and their benefits. Found that it is critical for companies to communicate the specific measures they are taking to protect customers' privacy and keep their data secure.
- In February, hosted Federal Trade Commission (FTC) Commissioner Terrell McSweeney for a public forum, Consumer Data Security, Privacy and IoT.
- In February, hosted an IoT Working Group meeting with senior officials from the Department of Commerce on their efforts and priorities related to IoT technologies.
- In March, publicly expressed support for the introduction of the DIGIT Act in the Senate. This act would bring together stakeholders in government and industry to shape IoT policy, ensuring that the United States realizes the full economic potential of IoT and remains a leader in this next chapter of the internet. Subsequently hosted a Hill roundtable with senior Senate staff on the bill's progress.
- In June, submitted comments to the Department of Commerce's National Telecommunications & Information Administration's request for comment, The Benefits, Challenges, and Potential Roles for the Government in Fostering the Advancement of the Internet of Things. Urged the adoption of farsighted regulatory policies that relieve regulatory barriers fostering the growth of IoT technologies and services.
- In July, hosted Reps. Peter Welch (D-VT) and Bob Latta (R-OH) for a roundtable discussion on the launch of their bipartisan IoT Working Group with other members of the House Energy and Commerce Committee.
- In July, hosted FTC's chief technologist, Dr. Lorrie Cranor, for a discussion on privacy and security issues related to IoT technologies and services.

- In October, conducted polling on C_TEC Intelligence immediately after the IoT/Cyber hack. Held a conference call with the cyber team to share the results with our members.
- In November, submitted comments to the House Energy and Commerce Committee on IoT for a hearing.
- In December, held an IoT Working Group meeting with Dr. Ron Ross from the National Institute of Standards and Technology, Allan Friedman from the National Telecommunications and Information Administration, and Thomas McDermott from the Department of Homeland Security to discuss IoT guidelines and the future of IoT security.

Peer-to-Peer Economy (P2P)

- In March, supported the U.S. Chamber Litigation Center's efforts to file suit in the U.S. District Court for the Western District of Washington to challenge a Seattle ordinance that authorized union organizing of for-hire drivers working as independent contractors, highlighting that the ordinance would burden innovation, increase prices, and reduce quality and services for consumers.
- In April, penned a letter to the Department of Transportation secretary regarding the Austin, Texas, city council's decision to mandate fingerprinted screenings of all transportation network company drivers, despite no evidence of its contribution toward rider safety.
- In September, held a sharing economy panel, including Rep. Issa (R-CA), at TecNation2016.
- In October, C_TEC Senior Vice President Tim Day moderated a sharing economy panel at the Austin State Government Affairs Conference.
- In December, conducted polling targeting workers in the P2P economy.

Artificial Intelligence (AI)

- In July, submitted comments to the White House Office of Science and Technology Policy's request for information, Preparing for the Future of Artificial Intelligence. Expressed the need for expert agencies that specialize in AI and machine learning technologies to take the lead on setting standards while consulting with private sector leaders in the AI space.
- In August, published a blog on the myths surrounding AI.
- In September, had an AI panel at TecNation2016.

Unmanned Aerial Vehicles (UAVs)

- In January, launched the UAV Working Group with companies and associations representing the users and providers of UAV technologies.
- In July, hosted the UAV Working Group meeting with FAA's senior adviser of UAS Integration, Major General Hoot Gibson, regarding unmanned aerial systems (UAS) rulemakings and requirements.
- In October, had an op-ed published in *Forbes* regarding the future of UAVs.

- In November, held a UAV Working Group and hosted CNN's Emily Avant, technology counsel, to discuss CNN's findings from being involved in the FAA's Pathfinder Program.

Autonomous Vehicles (AV)

- In November, hosted our inaugural AV Working Group meeting.
- In November, submitted comments to House Energy and Commerce Committee on Autonomous Vehicles.
- In November, submitted comments to the National Highway Traffic Safety Administration regarding its AV policy.

U.S. CHAMBER LITIGATION CENTER

In 2016, the U.S. Chamber Litigation Center filed more than 170 *amicus curiae* briefs on behalf of the Chamber, the third straight year where the Center filed more than 150 amicus briefs in courts around the country at every level of the federal judicial system and in state appellate courts. The Litigation Center is also litigating in more than 20 cases where the Chamber is a plaintiff, petitioner, or intervenor in legal challenges to federal or state regulatory action that violates the rights of businesses. Here is a summary of highlights from the Litigation Center's 2016 cases in the U.S. Supreme Court and in federal and state courts.

Positive Results for the Business Community at the U.S. Supreme Court

- On behalf of the Chamber, the Litigation Center participated in 13 merits cases during the U.S. Supreme Court's October Term 2015, which ended in June 2016. The side that the Chamber supported prevailed in 7 of the 12 cases that were decided, a 58% rate of victory. In addition, the Court granted petitions for writs of certiorari in 8 cases in which the Chamber supported review. The Litigation Center also hosted 11 moot courts to prepare members' advocates for oral argument before the Court.
- The Litigation Center continues to shape the Supreme Court's docket in the October Term 2016. While the Court maintained a lean docket in the fall, it granted certiorari in 3 cases that the Chamber supported. So far, the Chamber filed amicus briefs in 10 merits cases that have been or will be heard by the Court this term.

2016 Litigation Highlights

Arbitration

- **U.S. Supreme Court Victories.** On the heels of another positive merits decision upholding arbitration agreements from the previous term, the U.S. Supreme Court vacated two decisions in which state courts had erroneously refused to enforce arbitration agreements and sent the cases back to those courts to start over. The Chamber had filed a merits amicus brief in the critical merits decision—*DirecTV, Inc. v. Imburgia*—and filed an amicus brief in each follow-on case supporting the Court's

review. Those cases are *Ritz-Carlton Development Company v. Narayan* and *Schumacher Homes of Circleville v. Spencer*.

- **CMS Rule Banning Arbitration Enjoined.** One front in the broad assault by federal agencies on arbitration agreements was a rule promulgated by the Centers for Medicare & Medicaid Services (CMS) that would ban nursing homes from entering into pre-dispute arbitration agreements with their residents. After CMS finalized the arbitration ban, the American Health Care Association (AHCA) filed a complaint challenging the final rule as a violation of the Federal Arbitration Act (FAA), and the AHCA later filed a motion for a preliminary injunction halting the rule. The Chamber filed an amicus brief supporting that motion. On November 7, the district court granted AHCA's motion for a preliminary injunction against the rule. The case is *American Health Care Association v. Burwell*.
- **Victory for Uber.** In an important case applying California law, the Ninth Circuit reversed a district court decision that had declined to enforce Uber's arbitration agreements because the court found they were unconscionable; instead, the Ninth Circuit held that the threshold question of whether claims are arbitrable had to be decided by an arbitrator. The consolidated cases are *Mohamed v. Uber Technologies, Inc.*, *Gillette v. Uber Technologies, Inc.*, & *O'Connor v. Uber Technologies, Inc.*
- **D.R. Horton Rule.** The Litigation Center filed more than a dozen amicus briefs in a series of cases across the country in which parties, including the National Labor Relations Board (NLRB) appearing as a party or amicus, continue to press the NLRB's position, first announced in the *D.R. Horton* matter, that agreements between employers and employees to arbitrate disputes on an individual basis violate the National Labor Relations Act (NLRA). The Litigation Center has advocated vigorously against the *D.R. Horton* rule, which erroneously interprets NLRA to prohibit agreements between employers and employees to arbitrate disputes on an individual basis. The federal courts of appeals split on this issue, and several petitions for certiorari are pending in the U.S. Supreme Court. The Chamber filed briefs in three of those cases: *Morris v. Ernst & Young*, *Lewis v. Epic Systems*, *Raymour & Flanigan Co.*; and *NLRB v. Murphy Oil USA, Inc.*
- **International Arbitration Awards.** International arbitration decisions sometimes face hostility by foreign courts, and businesses turn to U.S. courts to enforce those international arbitration awards consistent with international arbitration treaties. Proper construction of the law governing the enforcement of international arbitration awards ensures that the sovereign's participation does not undermine the commerce-promoting benefits of international arbitration. In an important ruling, the Second Circuit upheld an international arbitration award notwithstanding the invalidation of the award by Mexican courts, reasoning that invalidating the award would be contrary to public policy. The Chamber filed an amicus brief supporting enforcement of the award. The case is *COMMISA v. PEP*.

Class Actions

- **"No Injury" Lawsuits.** The U.S. Supreme Court reversed a Ninth Circuit decision that had allowed plaintiffs to bring a lawsuit in federal court by alleging merely that a defendant had violated their statutory rights. The Supreme Court rejected this theory,

which has given rise to numerous “no injury” class or collective actions, and affirmed that plaintiffs can bring suit in federal court only by alleging an actual, concrete injury. The Chamber filed an amicus brief supporting the Court’s review and another brief on the merits. The case is *Spokeo, Inc. v. Robins*.

- **Appealability of Class Certification Orders.** The Supreme Court agreed to review a Ninth Circuit decision that effectively allows class-action plaintiffs to take an immediate appeal of right from orders denying class certification by voluntarily dismissing their claims with prejudice and then appealing the resulting judgment. The Chamber filed an amicus brief supporting the Court’s review and filed again on the merits. The case is *Microsoft v. Baker*.
- **Securities Class Actions.** The Eighth Circuit reversed a district court’s certification of a securities class action in which the Chamber participated as amicus. Applying the U.S. Supreme Court’s recent decision in *Halliburton v. Erica P. John Fund*, the Eighth Circuit held that the defendants had sufficiently rebutted any presumption of reliance and that the plaintiffs had failed to introduce evidence showing that reliance could be proven on a classwide basis. The Chamber filed an amicus brief supporting this result. The case is *IBEW Local 98 Pension Fund v. Best Buy, Inc.*
- **ERISA Class Actions.** The Supreme Court summarily reversed a Ninth Circuit decision that had allowed an ERISA “stock drop” class action to proceed. The Court reasoned that the plaintiffs had failed to allege enough facts to show that their ERISA fiduciary had breached its duty of prudence. The Chamber filed an amicus brief urging the Court to summarily reverse. The case is *Amgen, Inc. v. Harris*.

Electronic Discovery

- **Preservation Requirements.** The Texas Supreme Court granted full merits briefing of a pair of cases to determine whether a trial court order unlawfully imposed unreasonable preservation requirements for electronically stored information (ESI). Such expansive and expensive discovery orders are frequently leveraged by the plaintiffs’ bar in state and federal courts to obtain unreasonable settlements. The Chamber filed amicus briefs in support of the petitions for review and most recently on the merits. The cases are *In re State Farm Lloyds (Ramirez)* and *In re State Farm Lloyds (MDL)* (Texas Supreme Court).

Employment Law

- **Overtime Rule Litigation.** The Chamber led a coalition of trade associations in bringing a challenge to the Department of Labor’s unprecedented overtime rule doubling the minimum salary requirements for the overtime exemption under the Fair Labor Standards Act (FLSA). The U.S. District Court for the Eastern District of Texas issued a nationwide preliminary injunction against the rule, barring the agency from implementing or enforcing the rule. That ruling has been appealed to the Fifth Circuit, but the Chamber’s motion for summary judgment to permanently enjoin the rule is still pending. The cases are *Plano Chamber of Commerce v. Perez* (E.D. Tex.) and *State of Nevada v. U.S. Department of Labor* (5th Cir.).
- **Victories in the U.S. Supreme Court.** The Supreme Court unanimously held that a defendant may be considered a prevailing party in a Title VII action and therefore be

eligible to recover attorney's fees, even if the case is dismissed on a procedural ground instead of on the merits. The Chamber filed an amicus brief arguing for this result. The case is *CRST Van Expedited, Inc. v. EEOC*. In addition, the Court rejected a Ninth Circuit decision holding that service advisors at automobile dealerships are not exempt from FLSA's overtime pay provision. In so holding, the Court refused to grant deference to a Department of Labor regulation on the subject because it had reversed the previous, long-standing position of the agency and had not provided a "reasoned explanation" for its change in position. The Chamber filed an amicus brief in the case on the merits. The case is *Encino Motor Cars v. Navarro*.

- **Americans with Disabilities Act (ADA).** The Eighth Circuit held that obesity is not an ADA disability when it neither causes a significant functional impairment nor is caused by a physiological disorder. The court rejected EEOC's position in the case that obesity should be considered a disability under the ADA whenever it is beyond the "normal" range. The Chamber filed an amicus brief urging this result. The case is *Morris v. BNSF*.
- **ADEA.** The Litigation Center fought back against EEOC's attempt to expand the scope of the Age Discrimination in Employment Act (ADEA) to include disparate impact claims and expand the equitable tolling doctrine as applied to ADEA claims. Sitting en banc, the Eleventh Circuit held that ADEA does not authorize disparate impact claims by disappointed job applicants (as opposed to employees) and that a plaintiff must plead both diligence and extraordinary circumstances before being entitled to equitable tolling. The Chamber filed three times at various stages of this case. The case is *Villarreal v. R.J. Reynolds Tobacco Co.*

Environmental Regulations

- **Clean Power Plan.** In February 2016, the U.S. Supreme Court issued a historic stay of EPA's greenhouse gas regulations for utilities (the so-called Clean Power Plan), granting requests filed by the Chamber and a coalition of states, trade associations, companies, and advocacy groups. Subsequently, the D.C. Circuit ordered the case to be heard by the full en banc court in the first instance. The Chamber is leading a broad coalition of business associations to challenge the rule. The case is *West Virginia, et al. v. EPA*.
- **WOTUS.** The Sixth Circuit issued a nationwide stay of the Waters of the United States (WOTUS) rule issued by EPA and the U.S. Army Corps of Engineers. Although the stay was issued in 2015, the stay remains in place while the Sixth Circuit determines whether the WOTUS rule is lawful. The Chamber is a petitioner in the case, along with several other trade associations and states. The case is *North Dakota v. EPA*.
- **Regional Haze.** The Fifth Circuit issued an order staying the implementation of EPA's regional haze rule for Texas and Oklahoma. EPA admits that the rule will cost at least \$2 billion for companies in Texas to implement in the next few years. As a result, the rule could force some power plants to go offline and drive up electricity costs for all businesses in Texas. The Chamber, along with 22 Texas state and local chambers, intervened in support of the challenge. The case is *Texas v. EPA*.

- **Fracking.** The U.S. District Court for the District of Wyoming imposed a permanent injunction on the Department of Interior’s new regulations for hydraulic fracturing (fracking) on public lands. The permanent injunction follows on the heels of a prior preliminary injunction issued by the same court. The Chamber filed an amicus brief in the Tenth Circuit in support of the challenges to the department’s fracking rule. The case is *Wyoming et al. v. Department of the Interior*.
- **EPA Enforcement.** The U.S. Supreme Court held that a determination by the U.S. Army Corps of Engineers that a property contains Clean Water Act-protected “waters of the United States” constitutes “final agency action” subject to judicial review under the Administrative Procedure Act. The Corps’ legal theory had previously insulated its decisions from judicial review, which imposed a serious roadblock on the completion of transportation and other projects. The Chamber filed an amicus brief in the case. The case is *U.S. Army Corps of Engineers v. Hawkes Co., Inc.*
- **Energy Discrimination.** The Eighth Circuit held that Minnesota’s Next Generation Energy Act (NGEA), a law that purports to combat global climate change by effectively banning power generated from coal-fired power plants from entering Minnesota, violated the Constitution’s Commerce Clause because it sought to reduce coal emissions occurring beyond Minnesota’s borders by prohibiting transactions that originate outside the state. The Chamber filed an amicus brief in support of the challenge. The case is *North Dakota, et al. v. Heydinger*.
- **Overcriminalization.** The Texas Supreme Court held that the Texas Clean Air Act preempts a Houston ordinance that “incorporated” the entire state act into the municipal code and then made each violation of the ordinance a crime. The Chamber filed an amicus brief in support of the challenge to the Houston ordinance. The case is *BCCA Appeal Group v. City of Houston*.
- **Jobs Reports.** The U.S. District Court for West Virginia rebuked EPA for its multidecade failure to comply with its obligations under Section 321(a) of the Clean Air Act, requiring the agency to consider the impact of its regulations on jobs. Under the decision, EPA was ordered to promptly assess the impact of its regulations on jobs in the coal industry. The case is *Murray Energy v. EPA*.
- **CERCLA.** The Ninth Circuit held that the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) does not authorize “arranger liability” for air emissions merely because particles may eventually settle on land or in water. The case is *Pakootas v. Teck Cominco Metals*.

Federal Preemption

- **ERISA.** The U.S. Supreme Court held that ERISA preempted a health claims reporting requirement that Vermont imposed on third-party administrators of self-funded ERISA plans. The requirement, the Court reasoned, was inconsistent with the central design of ERISA, which is to provide a single uniform national scheme for the administration of ERISA plans without interference from the states. The Chamber filed an amicus brief in support of the challenge to Vermont’s law in both the U.S. Supreme Court and the lower court. The case is *Gobeille v. Liberty Mutual Ins. Co.* Also, in a pair of cases in which the Chamber filed amicus briefs, the U.S. Court

of Appeals for the Fifth Circuit held that the Texas prompt pay statute, Chapter 1301 of the Texas Insurance Code, does not apply to insurers that act as third-party administrators for self-funded ERISA plans. The cases are *Aetna Life Insurance Co. v. Methodist Hospitals of Dallas* and *Health Care Service Corp. v. Methodist Hospitals of Dallas*.

- **Puerto Rico Bankruptcy.** The U.S. Supreme Court held that the federal Bankruptcy Act barred the Commonwealth of Puerto Rico from enacting its own bankruptcy scheme to protect its municipal entities from creditors. The Chamber filed amicus briefs in both the Supreme Court and the lower court, arguing that Puerto Rico’s “self-help” scheme was preempted by the plain text of federal law. The case is *Puerto Rico v. Franklin California-Tax Free Trust Fund*.

Financial Regulation

- **Fiduciary Rule.** The Chamber, leading a coalition of business associations, filed a lawsuit in the U.S. District Court for the Northern District of Texas to challenge the Department of Labor’s so-called fiduciary rule and its related transactions exemptive rule. The Chamber’s lawsuit claims that the department’s rule exceeds statutory authority under ERISA, unlawfully creates private rights of action, is barred by FAA, constitutes arbitrary and capricious agency action in violation of the Administrative Procedure Act, and violates the First Amendment’s Free Speech Clause. The case is *Chamber of Commerce et al. v. Perez*.
- **SIFI Designation.** The U.S. District Court for the District of Columbia struck down the designation by the Financial Stability Oversight Council (FSOC) of MetLife as a significantly important nonbank financial institution (SIFI), holding that FSOC acted arbitrarily and capriciously in so designating MetLife. The Chamber filed an amicus brief in support of MetLife’s lawsuit. The case is *MetLife, Inc. v. FSOC*.
- **FIRREA.** The Second Circuit reversed a \$1.2 billion judgment against Bank of America in a precedent-setting case under the civil enforcement provisions of the Financial Institutions Reform, Recovery, and Enforcement Act (FIRREA). The Chamber, joining with other associations, filed an amicus brief in support of Bank of America’s appeal. The case is *United States v. Bank of America, N.A.*
- **Cities’ Standing to Sue Under FHA.** The U.S. Supreme Court granted petitions for writs of certiorari in two cases concerning causation and standing under the federal Fair Housing Act. In the two cases, the city of Miami claims that banks are liable to the city for the costs of dealing with urban blight caused by homeowners defaulting on their mortgages, which, in turn, were allegedly caused by discriminatory subprime mortgages underwritten by the banks. The district court dismissed the lawsuits, which are two of many lawsuits pending against banks brought by cities around the country by the trial bar, but the Eleventh Circuit reversed. The Chamber filed an amicus brief in support of the banks’ cert. petitions. The cases, *Bank of America Corp. v. City of Miami* and *Wells Fargo & Co. v. City of Miami*, were argued in November.
- **Consumer Financial Protection Bureau (CFPB) Run Amok.** The Chamber filed an amicus brief in support of PHH Corporation in a case against the CFPB challenging a \$109 million civil penalty levied against the company by Director Richard Cordray. A D.C. Circuit panel ruled in favor of the company, concluding that CFPB had exceeded its statutory authority, had retroactively changed the law in

violation of constitutional due process, and erred in making the remarkable assertion that it was not bound by any statute of limitations and could impose penalties on the company for action taken decades ago. Two of the judges also held that the provisions in the Dodd-Frank Act limiting the president's power to remove the CFPB Director except for good cause are unconstitutional because they violate the separation of powers. The case is *PHH Corp. v. CFPB*.

Forum Shopping

- **Parent Corporation Liability.** The New York Court of Appeals overturned a lower court decision holding that, even in the absence of any basis to pierce the corporate veil, a parent company can be held liable for torts allegedly committed by its foreign subsidiary on the theory that the parent is “in the best position to exert pressure for the improved safety products” and is the global “guardian” of the company’s brand. The Chamber filed amicus briefs in support of the companies. The case is *Finerty v. Abex Corp.*
- **Personal Jurisdiction.** The Delaware Supreme Court held that a company does not consent to general personal jurisdiction by registering to do business in the state. The “consent theory” rejected by the court would eviscerate the due process limits on personal jurisdiction recognized by the Supreme Court in *Daimler AG v. Bauman*, and it also could have the practical result of exposing corporations that do business nationwide to general jurisdiction in all 50 states. The case is *Genuine Parts v. Cepec*. Subsequently, the Colorado Supreme Court also rejected the “consent theory” in the case *In re Magill v. Ford Motor Co.*, and the California Supreme Court rejected the theory in *BMS v. Superior Court*. Since the Court’s decision in *Daimler*, the Chamber filed more than two dozen amicus briefs in federal and state courts addressing personal jurisdiction issues, including briefs in *Cepec*, *Magill*, and *BMS*.

Labor Relations

- **Persuader Rule.** The U.S. District Court for the Northern District of Texas issued a nationwide preliminary injunction of the Department of Labor’s persuader rule, barring the department from implementing or enforcing that costly rule. The Chamber filed an amicus brief in support of this challenge and two other lawsuits brought against the persuader rule, arguing that the department had plainly exceeded its authority under the Labor Management Relations Disclosure Act. The case is *NFIB v. Perez*.
- **Whistleblower Actions.** An important and recurring issue under the whistleblower provisions of both the Dodd-Frank and Sarbanes-Oxley acts is whether the Department of Labor’s Administrative Review Board (ARB) may ignore a defendant’s evidence that protected conduct was *not* the cause of the adverse employment action. The ARB ruled in the negative, holding that all relevant evidence must be considered in making this determination and that the Administrative Law Judge (ALJ) hearing the case erred by failing to take into account the defendant’s nonretaliatory reasons for termination. The case is *Palmer v. Canadian National Railway*.

Privacy, Technology, and Innovation

- **Extraterritoriality of SCA.** The Second Circuit held that the Stored Communications Act (SCA) does not apply to data stored overseas. Microsoft objected to an order requiring it to produce data stored in Ireland to the U.S. government. The Chamber, joining with other business and privacy groups, argued that the government's view of SCA, if adopted, would be devastating for the growth of cloud computing and the competitiveness of U.S. companies in the technology sector. The case is *Microsoft v. United States*.
- **VPPA and ECPA.** The Third Circuit affirmed the dismissal of claims under the Video Privacy Protection Act (VPPA) and the Electronic Communications Privacy Act (ECPA) brought against Viacom and Google. The Chamber filed an amicus brief and also presented oral argument in support of Viacom's and Google's position. The case is *In re Nickelodeon Privacy Litigation*.

Punitive Damages

- The Tenth Circuit held that a district court erred in upholding a punitive damages award that was 11.5 times larger than the compensatory damages award in the case. The court explained that the district court's deference to the jury's award was inconsistent with the level of review required by due process. The Chamber filed an amicus brief in support of the defendant. The case is *Lompe v. Sunridge Partners*.

Tax

- The Chamber, together with the Texas Association of Business, filed a legal challenge to the IRS' immediately effective Multiple Acquisition Rule, which attempts to prevent certain corporate mergers that are otherwise permitted under the inversion rules under Section 7874 of the Internal Revenue Code. In addition to challenging the IRS' authority under Section 7874, the case raises two additional issues of broad concern to the business community: whether the IRS can issue immediately effective temporary rules without showing good cause, as well as the extent to which the Anti-Injunction Act bars legal challenges to agency action that does not directly assess a tax but merely provides indirect support for a tax. The case, *Chamber of Commerce v. IRS*, is pending in the U.S. District Court for the Western District of Texas.

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