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INSIGHTS

Post-Election Update 2016

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OVERVIEW

The 2016 election results have significant implications for companies across a wide range of industry sectors. From environmental policy to financial services to tax reform, President-elect Trump has committed to sweeping action on a variety of fronts, and will have a Republican-controlled House and Senate to work with on priority issues. Nevertheless, the GOP-led Senate is not filibuster-proof, and many of the finer points of Trump's agenda remain unclear. Accordingly, it is important for interested stakeholders to begin thinking through how their own priorities will track with the next President and Congress.

The Policy Resolution Group at Bracewell LLP (PRG) has prepared this post-election report to identify some of the key issues slated for action in Washington next term. Our team of lobbyists, lawyers and strategic communications professionals combines decades of experience working on these issues in the private sector, on Capitol Hill and at federal agencies—and stands ready to help our clients make sure their voices are heard by policymakers and the public.

For further details on the election results, click *here*.

To listen to the PRG Post-Election Webinar, click *here*.

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ENERGY

By ***Scott Segal****,* ***Dee Martin****, and* ***Salo Zelermyer******

Although there was almost zero discussion of energy policy in the presidential debates, President-elect Donald Trump frequently cited energy policy as a cornerstone of his plans to grow the U.S. economy.

While the dust settles on this historic election and as Americans await the inauguration of their new President, those interested in energy policy can expect that questions about energy infrastructure, the power sector, the transportation sector and upstream production will be hotly debated in Washington during 2017.

Energy Infrastructure

Trump has made it clear that an infrastructure-driven jobs program will be his central economic priority in the initial months of his presidency. While it is premature to speculate about the exact composition of any infrastructure package, it is reasonable to expect that it will include provisions designed to fast-track the energy infrastructure (e.g. pipelines, terminals, etc.) necessary to maximize the economic benefits of domestic energy production.

Power Sector: CPP and Beyond

President-elect Trump has made it clear on the campaign trail that he intends to dismantle President Obama's Clean Power Plan (CPP). The legal challenges to CPP will still be underway even as the new President is inaugurated. As a result, there will be options to potentially change or reach settlement on the rule. That being said, even if the rule proceeds, a Trump administration can reopen the rule through rulemaking assuming their decision is based on substantial evidence in the administrative record. In any event, the regulatory burden facing the utility industry is likely to be dialed back substantially.

Transportation Sector: RFS and Beyond

The RFS has been the subject of immense amounts of discussion from the primary season in Iowa through today's heated debates. We expect that it will continue to be a collective focus of the farm lobby; the oil industry; and the environmental community who now doubt that the program will generate significant greenhouse gas emission reductions.

While Trump has been generally supportive of ethanol, he has stated that he thinks current implementation of the renewable fuels policy has created some unfairness for refiners and small business in the unstable world of high prices for tradable credits (or RINs). There could well be action in reforming that part of the renewable fuel program and fairly soon. There is little doubt that Trump has received input on the issue at the highest levels.

Unleashing Upstream Production

A Trump administration is clearly in favor of enhanced exploration and production of oil and gas as a tenet of energy, economic and national security policy. Some of Trump's key advisors–from Oklahoma oil producer Harold Hamm to North Dakota Congressman Kevin Cramer–have espoused a bullish posture on oil and gas and shale development in particular.

Trump has spoken before major conferences in the Bakken and Marcellus regions delivering a message of strong growth and development. In concrete terms, this may mean that Trump is not likely to impose particular restrictions on development on public lands and may not be favorably disposed towards assertion of new EPA authority to regulate fracking or other aspects of the shale process.

He has said he would "revoke policies that impose unwarranted restrictions on new drilling technologies," which may be an oblique reference to new restrictions proposed on methane emissions from oil and gas production.

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ENVIRONMENT

*By **Scott Segal**, **Frank Maisano***, and **Salo Zelermyer***

From the clean energy components of the stimulus to the Paris Climate Agreement, President Obama staked a significant amount of his legacy on actions to reduce greenhouse gas emissions. How instrumental was opposition to these actions in electing Donald Trump? It is hard to say at this stage but President-elect Trump's message of rolling back federal regulations—specifically, environmental regulations—that have stifled economic growth may have been one key factor in turning major portions of the "Rust Belt" from blue to red. Our expectation is that loosening regulatory restrictions on all aspects of the energy sector is likely to be an early and constant core element of Trump's domestic policy agenda.

Against this backdrop, those interested in environmental policy should look at four key issues: the Clean Power Plan and climate policy; methane emissions and shale; appliance standards; and pipeline approvals.

The Clean Power Plan (CPP) and Climate Policy

President Obama's Clean Power Plan (CPP), the sweeping regulatory initiative designed to force utilities to reduce consumption of fossil fuels, is being challenged in the courts. Regardless of the outcome, we expect CPP to be the main initial target of the Trump team. The legal challenges to CPP will still be underway even as the new President is inaugurated. So, there will be options to potentially change or reach settlement on the rule. Even if the rule proceeds, a Trump administration can reopen the rule through rulemaking assuming their decision is based on substantial evidence in the administrative record.

Trump's comment in North Dakota that he would "cancel the Paris Climate Agreement" is expected to be another major aspect of his climate policy. It is important to remember that the Paris agreement was never submitted for ratification to the U.S. Senate and is explicitly described by the current administration as not being enforceable. Therefore, a Trump administration would have a good deal of flexibility in dealing with the agreement—even though the U.S. has made clear indications that Paris is part of U.S. foreign policy upon which some measure of credibility rests.

Methane Emissions and Shale Production

President-elect Trump has pledged to unleash domestic energy production onshore and offshore. Accordingly, we can expect the Trump EPA to halt or significantly alter current regulatory proposals to limit methane emissions from oil and gas production. Similarly, regulations promulgated by the Bureau of Land Management (BLM) on hydraulic fracturing on federal lands are currently under judicial challenge. Much like the CPP, expect a Trump BLM to reel in any legal defense of these regulations and ensure production on federal lands continues apace.

Appliance Standards

Often overshadowed by CPP, energy efficiency standards for appliances issued by the Department of Energy (DOE) were a major component of President Obama's Climate Action Plan and the U.S. commitments under the Paris Climate Agreement. These standards were also a source of significant angst for residential appliance manufacturers who chafed at frequent rulemakings, revised test procedures, ever more stringent standards, and frequent DOE enforcement actions. Expect a Trump DOE to dial back the pressure on this portion of the manufacturing sector and work with industry closely on how best to balance the need for economic growth with achievable efficiency levels.

Pipeline Approvals

Between the Keystone XL pipeline and the Dakota Access pipeline, the environmental left has spent the past four years building up pipeline protests as ground-zero in the fight against fossil fuels. In many cases, these fights pitted the Democrat's environmental and union bases against each other and may have contributed to union defections to Republicans in the 2016 election. For this reason, expect Trump's domestic policy team to quickly make it clear that they intend to expedite approval of energy infrastructure such as pipelines.

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TAX

*By **Curt Beaulieu***

After a decade of discussion and debate, the election of Donald Trump makes it likely that substantive tax reform will finally occur in the next two years or sooner. Congressional tax-writing committees are now forming, and tax reform proposals have now been put forward by a group of House Republicans, and both Senate Finance Committee Chairman Orrin Hatch (R-UT) and Ranking Member Ron Wyden (D-OR). The timing of legislation will depend on how fast the Trump administration wants to move tax reform forward.

House Republican Tax Plan

The House GOP Task Force on Tax Reform, led by Ways and Means Chairman Kevin Brady (R-TX) and overseen by Speaker Paul Ryan (R-WI), released its "blueprint" tax reform proposal on June 24, 2016. The "blueprint" cuts individual and corporate tax rates, simplifies the tax code, and promotes economic growth. The proposal reduces the corporate tax rate to 20%, allows for 100% full and immediate write-off of business investments, and moves towards a purely territorial taxation system in which companies would only pay tax to the U.S. government on earnings that occur within the U.S. This is accomplished via 100% exemption for dividends from foreign subsidiaries; a one-time repatriation tax of 8.75% for cash and 3.5% for everything else;

and border tax adjustments going forward whereby imported goods are subject to a tax (equal to the corporate tax rate of 20%) and revenues from exports are exempt. The tax code would no longer provide U.S. multinational corporations "an incentive to move production overseas because the tax burden would be based on sales within the U.S. regardless of where the goods are produced."

The House Ways and Means Committee, led by Chairman Kevin Brady (R-TX), will continue to work out the details of a tax reform plan pursuant to the "blueprint." Rep. Jim Renacci (R-OH) and other members of the Ways and Means Committee have introduced alternate tax reform plans centered around a consumption tax similar to a value-added tax.

Senate Finance Committee Tax Plans

The Senate Finance Committee has yet to release a tax reform plan as comprehensive as the House GOP "blueprint." Instead, tax reform proposals in the Senate have been unveiled through a more piecemeal approach.

In December 2014, Chairman Hatch released a ***guidebook on tax reform***, but has to date withheld his detailed tax plan due to still uncertain revenue estimates. However, the plan is centered around the concept of corporate integration, an approach meant to eliminate the double taxation on corporate income—once at the corporate level and again at the shareholder level, as imposed by the capital gains and dividends tax. The corporate integration concept relies on a "dividends paid" deduction. It would also require a withholding tax of 35% for tax-exempt organizations and foreign shareholders.

Ranking Member Wyden has also released plans to reform particular sections of the tax code. In particular, he has proposed simplifying capital depreciation rules through the pooling of assets, applying mark to market tax treatment on financial derivatives, and streamlining energy tax credits into a single technology-neutral tax credit.

President-elect Trump's Tax Plan

President-elect Trump released two versions of tax reform plans during the presidential campaign. The latest version is similar to the House GOP "blueprint". For corporate tax reform, Trump proposes reducing the corporate tax rate to 15%. His plan would also allow businesses to either choose immediate expensing of purchases of equipment or take the interest deduction, but not both deductions.

On the international side, Trump proposes to provide a deemed repatriation of corporate profits held offshore at a one-time tax rate of ten percent.

Common Ground

The international tax reform proposals put forward by Speaker Ryan, the Senate Finance Committee, and Donald Trump are not far apart. All three proposals want to use repatriation as a means to bring foreign earnings back to the United States and put a stop to corporate inversions. The proposed reforms in the Trump plan and the House GOP "blueprint" plan are also very similar, particularly on changes to corporate taxes.

Chairman Hatch's forthcoming tax plan is unique in that it would require revenue increases elsewhere in the House GOP "blueprint" plan in order to offset the costs of incorporating it into the "blueprint." One way to increase revenues is to increase the capital gains and dividends rates. This would not only create an offset of corporate integration, but would also increase taxes on the wealthy, something the Democrats would likely propose in the context of their version of comprehensive tax reform.

When Congress moves toward corporate tax reform, energy companies in particular should pay close attention to how proposals deal with expensing or depreciation of assets, treatment of debt and equity, and if moving towards a territorial system, how the proposals deal with a border adjustment import tax on crude oil. Both the Trump plan and the congressional plans also call for eliminating loopholes, special interest deductions, and credits. While still vague, these concepts could lead to the repeal of various energy-related tax incentives including the production tax credit and investment tax credit for renewable energy, permanent oil and gas tax provisions, or pass-through treatment for certain income related to energy and natural resources.

Bipartisan Compromise?

There appears to be a great deal of common ground between President-elect Trump's plan and the House GOP plan. The challenge will be incorporating Senator Hatch's proposals into this framework.

There is also a procedural challenge. The House can pass a tax reform plan quickly. Speaker Ryan will likely push tax reform through regular order, meaning that he will allow the House Ways and Means Committee to debate and amend legislation before it goes to the full House for a vote. The real hurdles come during the passage in the Senate. One option is for the Senate to amend the House-passed bill to incorporate some of Senator Hatch's proposal along with some input from Senate Democrats. By making the bill bipartisan, it is more likely that future Congresses will not repeal the legislation.

Another option is for the Senate to use budget reconciliation, an expedited procedure that can avoid a filibuster. By doing so, Senate Republicans would not need support from Senate Democrats in order to pass the legislation out of the Senate.

In the end, because President-elect Trump has already indicated that tax reform is a priority, look for the tax reform debate to be placed front and center in the new Congress.

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APPROPRIATIONS & BUDGET

*By **Ed Krenik*** *and **John Lee***

With a government funding deadline looming on December 9, 2016, Congress will have its fair share of work to do upon its return after the national elections. The following is a review of the current Continuing Resolution (CR) passed in September, how Congress might decide to fund the government moving forward, and potential leadership changes in the 115^{th} Congress for the Appropriations Committee.

September Review

The Continuing Resolution, H.R. 5325, included: $1.1 billion to address the Zika Virus, $500 million in disaster relief funding for Louisiana, Texas, and other states; $37 million in funding for opioid use reduction programs; and a full-year MilCon VA Appropriations bill. This leaves 11 appropriations measures outstanding which, in the meantime, are being funded at FY 16 levels.

Originally, Democrats insisted on the inclusion of emergency funding for the drinking water contamination crisis in Flint, Michigan as part of the overall package. However, objections were dropped when the House added a $170 million funding authorization for Flint to the Water Resources Development Act (WRDA), and the Senate included Flint money in its own version as well. This move averted a government shutdown.

What's Next

The December 9th date means Congress will either have to reach agreement on the remaining 11 appropriations measures or pass another CR. Here are the available options:

- All 11 bills could be enacted as part of a massive omnibus;
- The 11 could be broken into mini-buses, packages of two or more bills each;
- A two- to three-month CR could be adopted at fiscal 2016 levels for the agencies that haven’t been funded for FY 17. A full year CR is also a possibility; or
- Some of the easier bills could be enacted in an omnibus while the more difficult ones would have funding levels extended, therefore creating a “cromnibus,” meaning a CR for some and final numbers for the others.

Sources tell us the most likely vehicle will be a short-term CR lasting until March, after President Trump submits his new budget in February of 2017. This is likely due to the fact that Congressional Republicans are aware they do not need to bargain, as they have control of both houses of Congress and the Presidency. Pushing negotiations until March means that Republican priorities can be preserved, and all agencies will continue to be funded at current levels.

If instead there is desire to make a deal, there first needs to be a resolution on topline spending targets, specifically whether Republicans will abide by a budget agreement last year that committed equal rises in discretionary spending for domestic programs if defense increases were pursued. Democrats will view breaking the initial budget agreement as a nonstarter, only strengthening the chances that a CR will be the funding vehicle as opposed to an agreement on an omnibus.

New Leadership

As Chairman Hal Rogers (R-KY) is termed out of the House Committee on Appropriations chairmanship, he will be replaced in the 115th Congress at the start of the year. Representative Rodney Frelinghuysen (R-NJ), currently the chairman of the Defense subcommittee, has seniority and looks likely to be the next Chairman.

October brought some rumblings that Representative Robert Aderholt (R-AL) would challenge Frelinghuysen. However, Aderholt recently confirmed he will not challenge the New Jersey Republican. The House subcommittee chairs will also be changed due to retirement and term limits. Of particular note will be the decision on who will lead the Defense Appropriations subcommittee as Frelinghuysen moves to chair the full committee. Outgoing Chairman Rogers has expressed an interest, however Representative Kay Granger (R-TX) is next in line for the gavel. With the retirement of Representative Crenshaw (R-FL), Chairman of the Financial Services subcommittee, there will be an additional subcommittee chairmanship available, and, with many members interested in leadership positions, this could cause multiple changes at the subcommittee helms.

On the Senate side, Chairman Thad Cochran (R-MS) will retain his spot as head of the committee, so the coming weeks will instead focus on who Democrats will tap for ranking member as Senator Mikulski (D-MD) has retired. If Senator Durbin (D-IL) is not given the #2 leadership slot behind Chuck Schumer, many have speculated this could be an "appropriate" landing spot for him. As the most senior Democrat, Senator Patrick Leahy (D-VT) is also rumored to be considered, but this would mean abandoning the Judiciary Committee.

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Trade
*By **Gene Godley**, **Paul Nathanson***, and **Josh Zive****

The 2016 elections featured the most focus on U.S. international trade policy since 1992. President-elect Donald Trump placed harsh criticisms of the North American Free Trade Agreement (NAFTA), the Trans-Pacific Partnership (TPP) and China and made international trade the center of his economic agenda.

With Trump's victory it is safe to say that the political environment on trade issues is more volatile than it has been in decades. As the international trade community prepares for President-elect Trump and the new Congress a few issues are front and center:

The Future of NAFTA:
Trade between NAFTA countries has increased consistently since NAFTA was adopted in 1994—more than $1 trillion in goods and services are traded between NAFTA countries. NAFTA continues to have strong support in the business community. Even in the manufacturing community, where opposition to trade with China can be fierce, many manufacturing leaders support NAFTA and have built their business models based on free trade with Canada and Mexico.

NAFTA generated little controversy over the past two decades until Donald Trump spent much of the past 18 months making the case that it is a bad deal for the U.S. and should be renegotiated. Trump's success in the election, particularly in the "Rust Belt," was built in no small part on his critique of NAFTA. Accordingly, it will likely be difficult for Trump to back away from his firm commitment to renegotiate NAFTA. However, what this means in detail is uncertain. The terms of NAFTA do allow any one of the member countries to withdraw six months after providing written notice, but outside of threatening to withdrawal unless a 'better' deal can be cut, it is not clear what terms a President Trump will demand.

What we do know is that negotiating trade agreements is a long and difficult process, and if the U.S. withdraws from NAFTA, or breaches NAFTA by imposing tariffs outside of the treaty's terms, U.S. manufacturers and businesses could face a new wave of business challenges. Higher domestic tariffs will increase costs for domestic importers of raw materials or components, and history has shown that tariffs on imports allow domestic producers to increase their prices because of the protection they are afforded from international competition. Confronting these challenges and educating policymakers and the public about the complexities of international trade will be both necessary and difficult.

TPP Outlook:
The TPP, if adopted by all parties, would establish a new free trade zone between the U.S. and 11 Pacific Rim countries—a trade zone that would include countries accounting for nearly 40% of global GDP. After years of negotiations, President Obama and supporters in Congress expected to be able to get "fast track" approval of the TPP by Congress during the fall of 2016. However, given Trump's victory and the central role that trade played in his strategy, it is very likely that the TPP, at least as currently negotiated, will not become law in the U.S.

Other Trade Issues:
Those who want to restrict trade often focus on US antidumping and countervailing duty laws, an area of trade law that does not get a great deal of attention outside of Washington, but that can cut-off trade on specific imported products for years or even decades. Congress already passed and the President signed two bills (the "Trade Remedies Bill" and the Trade Facilitation and Trade Enforcement Act of 2015) earlier this year that: make it easier for U.S. companies to bring anti-dumping and countervailing duty cases against their foreign competitors; provide more discretion to the U.S. Department of Commerce in trade investigations; and makes it easier for U.S. Customs and Border Protection to investigate companies suspected of evading antidumping and countervailing duty orders.

Should Congress want to further restrict trade, it could once again take up the issue of currency manipulation. China is often accused of manipulating its currency so that its exports are cheap, and Trump often used this argument during his campaign. The U.S. steel industry and steel unions have for years attempted to include currency manipulation in trade cases by including it as a countervailing subsidy that would allow for higher duties. Such a provision was dropped from the final Trade Facilitation and Trade Enforcement Act of 2015 because of opposition from the Obama administration, but look for the Congressional Steel Caucus to make another attempt in 2017.

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CONSUMER PROTECTION
*By **Ed Krenik**, **Paul Nathanson**, and **John Lee***

Donald Trump's win on Election Day will greatly change the composition of the Consumer Product Safety Commission (CPSC), as the change from a Democratic administration to a Republican administration means the commission will eventually have a new chairman as well as a majority of Republican commissioners. Additionally, the Republican majority in the Senate will ensure that oversight over the agency's rulemaking activities remains a top priority.

President-elect Trump's first order of business will be to appoint a new chairman. Precedent suggests current Chairman Elliot Kaye will step down at the start of President-elect Trump's term in January, leaving Trump to name a new chairman. This assumes Chairman Kaye would give up both the chairmanship and his commissioner seat. In this scenario, the chairmanship would fall to Vice-Chairman Bob Adler. It is expected that the commissioners would meet to elect a vice-chairman from the Republicans, which would set up an election between Anne Marie Buerkle and Joseph Mohorovic to serve as vice-chairman/acting chairman. The Commission will then be made up of two commissioners from each party, guaranteeing a tie on any controversial proposal before CPSC.

However, in the event Chairman Kaye decides to remain on the Commission as a commissioner, the current vice-chairman Bob Adler would assume the chairmanship. As discussed above, because the vice-chairman is of a different party than the President-elect, the commission meets to elect a new vice-chairman from the ruling party. The Commission would remain a 3-2 majority for the Democrats, but the new acting chair, one of the seated Republican commissioners, would have control of the agenda. The Commission would operate in this fashion until Democratic Commissioner Robinson's term expires in October of 2017, which will mark Trump's first opportunity to make a Republican selection and solidify the majority.

CPSC Regulatory Agenda

Between now and end of President Obama's term, it will be important to watch for the finalization of "midnight regulations" before Republicans take the White House and Congress.

CPSC priorities were outlined in the fiscal year 2017 Operating Plan, which passed on October 19 along party lines, 3-2. The package as a whole includes the following agenda items that Chairman Kaye may attempt to complete prior to a personnel change at the Commission:

- Proposed rulemaking that would make important changes to the Voluntary Recall Rule under Section 15 of the Consumer Product Safety Act;
- Proposed rulemaking that would compel significant changes related to information disclosure under Section 6(b) of the Consumer Product Safety Act;
- Proposed rulemaking regarding CPSC staff participation and involvement in voluntary standards activities;
- Proposed rulemaking amending existing regulations on Certificates of Compliance; and
- Continued rulemaking under Section 104 of the Consumer Product Safety Information Act (CPSIA) for certain durable infant and toddler products, including cribs.
- Final rulemaking on products including table saws, upholstered furniture, portable generators, and ATVs based on conspicuity.

Additionally, the Commission's meeting on October 19 brought a series of controversial amendments that were included in the final package. These included an amendment proposed by Chairman Kaye to add crib bumpers as durable nursery products, direct staff to continue with rulemaking under Section 104 and add them to the recall registration card rule. An additional standards participation amendment filed by Commissioner Robert Adler directed staff to look at ways to increase consumer group participation in standards-development activity, using CPSC funds to compensate travel costs. The Republican Commissioners were concerned this would amount to a blank check, and the amendment was revised specifying that no funding would occur until after commissioners had a chance to review a proposed protocol.

Commissioners Buerkle and Mohorovic expressed displeasure with the final operating plan due to the reemergence of voluntary recall and 6(b) rulemakings on the agenda despite Chairman Kaye previously testifying to Congress these were not going to be priorities. The Commissioners also pointed to "mission critical" vacancies in senior management positions as needing to be a greater focus than premature mandatory rulemakings.

Ultimately, Commissioners Buerkle, Mohorovic, and the third Republican to join the commission will be able to leave a lasting mark on the fiscal year agenda for the Commission, terminating rulemakings viewed as government overreach and too aligned with a "Nanny State" mentality. However, in the meantime, look for any of these rules to be expedited as Democrats understand this will be their last opportunity before the transition.

Changes to Senate and House Committees with Jurisdiction

Republicans retaining the majority in the Senate means Senator John Thune (R-SD) will keep his chairmanship. Senator Bill Nelson (D-FL), the current ranking member, is likely to remain in his position as well. The other Senior Democrats on the committee are unlikely to challenge Nelson, including Maria Cantwell (D-WA), and Claire McCaskill (D-MO) who are likely to have other leadership preferences besides Commerce.

Senator Jerry Moran (R-KS) currently serves as Chairman of the Consumer Protection, Product Safety, Insurance, and Data Security subcommittee and is likely to stay on, as is Ranking Member Senator Richard Blumenthal (D-CT). This is the subcommittee with jurisdiction over CPSC, and it is probable the oversight strategy of reigning in CPSC rulemaking employed in the current Congress will remain.

Additional leadership changes include those to the Subcommittee of the Energy and Commerce Committee with oversight of the CPSC. The House of Representatives remains under Republican control, however Representative Fred Upton (R-MI) is officially termed out as Chairman of the House Energy and Commerce Committee. The race for the chairmanship is now centered on two candidates, Representative John Shimkus (R-IL) and Representative Greg Walden (R-OR). Shimkus holds the seniority, and has been involved in energy based issues his entire career. Walden, on the other hand, is Chairman of the National Republican Congressional Committee, and due to his success in defending the majority may be considered for a leadership post. On the other side of the aisle, Rep. Frank Pallone (D-NJ) is likely to maintain his ranking membership, although Anna Eshoo (D-CA) has expressed interest in the past.

Subcommittee leadership slots will be hotly contested, as the opening left by Upton will cause a reshuffling among Republicans. Commerce, Manufacturing, and Trade Subcommittee Chairman Burgess will probably move because of Chairman Pitts's and Whitfield's retirements. Other Senior Republicans on the committee who could take the gavel include Leonard Lance (R-NJ), Marsha Blackburn (R-TN), and Gregg Harper (R-MS). Jan Schakowsky (D-IL), the current ranking member, is viewed as likely to retain her post.

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FINANCIAL SERVICES

By George Felcyn and Josh Zive

As President-elect Trump prepares to assume office in January, many questions have been raised about what kind of approach he will take in key policy areas, a result of the relative lack of specific proposals that emerged during his campaign. What's in store for Wall Street and financial reform remains one of the larger unknowns about a Trump administration. Let's examine a few clues that suggest how a Trump administration will handle this area of policy.

Views from the Financial Sector

What does Wall Street think of Donald Trump, anyway, and vice versa? In one key barometer, donations flowing to the two candidates from the financial sector during the campaign favored Secretary Clinton over Trump by a ratio of 40 to 1 ($71.8 million vs. $1.8 million), suggesting a far greater level of comfort with the candidate who not long ago represented the industry as a Senator from New York. This donation gap has not gone unnoticed by Trump, who has shown an apparent unwillingness to let perceived slights pass by lightly. Indeed, Trump's unpredictable nature and strongly populist campaign themes make him anything but a traditional Republican ally to bankers. As Mr. Trump said at an October 26th rally in Charlotte, NC (home to major banking operations of BofA and Wells Fargo):

"Equal justice also means the same rules for Wall Street. The Obama administration never held Wall Street accountable."

Given the decidedly unsettled relationship between President-elect Trump and establishment financial sector interests, how likely is he to include Wall Street in his vision for "regulatory reform" and make regulatory life in the financial sector easier? Let's examine what may and may not be possible over the next few years.

Role of the Senate

It's important to keep in mind first and foremost that wholesale legislative change will be difficult, if not impossible, to accomplish given the current make-up of the Senate. While both chambers of Congress remain Republican, the GOP's narrow grasp on the Senate of 51 (pending the run-off in Louisiana) seats is far from the filibuster-proof majority needed to carry out sweeping legislative change on any issue that sparks controversy. Add an increasingly empowered Sen. Elizabeth Warren to the mix, who is likely to seek high-profile opportunities to "stand tough" on Wall Street as she eyes her own Presidential prospects for 2020, and the chances of Democratic grandstanding against any loosening of Wall Street rules loom increasingly large.

As a result, though sought by the financial industry and many Congressional Republicans alike, wholesale changes to *Dodd-Frank*—substantially revamping the Consumer Financial Protection Bureau, eliminating the Volcker Rule, or rolling back burdensome governance and liability standards on smaller credit rating agencies, to name a few—are unlikely to come to pass as long as legislative action is required.

The takeaway for now: For at least the next two years, pending sweeping GOP gains in the Senate in 2018, look for incremental change rather than large-scale reform vis-à-vis the financial sector.

Dodd-Frank Outlook

If incremental reform is the name of the game, what might that look like?

The first order of business may come with tweaks to *Dodd-Frank* designed to provide relief to community banks and credit unions from burdensome requirements originally meant to "rein in" larger financial institutions in the wake of the Great Recession of '08-'09. There is considerable bipartisan support for alleviating aspects of the legislation that are perceived to have an outsized effect on smaller institutions. Targeted, small-scale reforms that lighten some of the more onerous requirements in the area of mortgage-lending rules, data-collection and other reporting mandates could make a meaningful difference to community financial institutions and align nicely with the Trump administration's mantra of helping "disadvantaged" segments of the economy and spurring renewed growth by reducing regulations.

Nevertheless, as mentioned above, other potential areas of reform, including many contained in House Financial Services Committee Chairman Jeb Hensarling's "Financial Choice Act" (viewed by many as a blueprint for Dodd-Frank reform in the coming term), will be exceedingly tough to pull off without buy-in from Senate Democrats.

What about pressure from Donald Trump's base to strike a blow against Wall Street on behalf of Main Street? One option that might fit with the President elect's perceived leanings, a variation of which is supported by Chairman Hensarling, would enhance executive and institutional accountability for fraud and deception by creating "skin in the game" for financial industry executives under which individuals could take a direct hit on compensation if institutionally risky losses occur under their watch.

Federal Reserve

Unlike the President-elect, Chairman Hensarling is not a proponent of reducing the independence of the Federal Reserve to set monetary policy as it sees fit. However, Chairman Hensarling has supported efforts in the past to increase the transparency and predictability of the Fed in communicating its monetary decisions to the public, and providing greater insight into its decision-making rationale.

The transparency concept stops well short of the President-elect's campaign rhetoric about an "overly politicized" Fed contributing to a "false economy," but may in the end provide an avenue of reform that could see debate in the Senate. Moreover, in lieu of direct attacks from President Trump on the Fed, look to a shift toward large-scale fiscal policy tools to trigger economic growth, such as major infrastructure spending, as well as tax reform and broad-based deregulation, in effect steering away from reliance on low interest rates to stimulate the economy.

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