

LPL PAC – State of Play

President Trump's first weeks in office were filled with a flurry of executive actions on issues ranging from health care, trade, immigration, national security, and other areas, as he looks to fulfill campaign promises and begin work on some of his key priorities, such as tax reform. His actions have not been without controversy – such as the immigration ban, which could end up at the Supreme Court level – and he has pushed out several deadlines.

President Trump issued a pair of executive orders in February directing the U.S. Department of Labor to review its fiduciary rule, and ordering a review of regulations implementing the Dodd-Frank Act, with an eye toward regulatory relief. The Department of Labor is expected to take action to delay the applicability date of the fiduciary rule, and could ultimately rescind or replace it through a new rulemaking process. The recent withdrawal of Andrew Pudzer from consideration for the position of Secretary of Labor is not expected to impact the ultimate delay of the DOL rule's applicability date. The second order described seven, very general, "Core Principles" the Administration will use in approaching financial regulatory changes, and specifically directs the Treasury Secretary to consult with other regulatory heads on the Financial Stability Oversight Council and report to the President on the extent to which existing rules promote these Core Principles and any planned actions.

President Trump also is pushing to repeal and replace Obamacare, and the Republican Congress could seek to address the effort in a budget reconciliation bill in March, which would only require a simple majority vote in the Senate (no filibuster). Congressional Republicans remain divided on the timing and content of repeal-and-replace, but insurance companies say they need to understand by March the replacement details in order to submit proposed premiums for 2018 plans in states that rely on HealthCare.gov.

On Capitol Hill, Republicans held their policy retreat in late January, and set an ambitious 2017 agenda, with the top two priorities being the Fiscal Year (FY) 2017 budget reconciliation bill to repeal-and-replace the Affordable Care Act (ACA), and a Fiscal Year (FY) 2018 budget reconciliation bill to initiate tax reform. The Senate can approve the two budget reconciliation bills to address ACA repeal and tax reform with a simple majority, but Congressional Republicans have yet to coalesce around specific legislative proposals. Tax reform efforts have slowed somewhat particularly as stakeholders remain divided on two major provisions in the House Republican tax reform proposals – a border adjustability tax (BAT) and repeal of interest deductibility.

House Democrats held their policy retreat last week, and focused on developing a strategy to block Congressional Republican legislative proposals, particularly where Republicans attempt to roll back Obama-era regulations included in Dodd-Frank.

The House and Senate also have moved early to repeal Obama-era regulations related to the environment, education, and energy via the Congressional Review Act (CRA), which allows Congress to repeal rules finalized in the last 60 legislative days with a simple majority. As the Senate continues to review and vote on President Trump's cabinet appointees, it hopes to take up the House-passed disapproval resolutions under CRA, but will be limited by competing priorities and a constrained schedule.

In the coming weeks, House Financial Services Committee Chair Jeb Hensarling (R-TX) will release his Financial CHOICE Act "2.0," which will move through committee this spring. The original CHOICE Act was cast as a wholesale alternative to Dodd-Frank, and was approved by the Financial Services Committee along party lines last year, but never taken up by the full House. Some version of this legislation is likely to pass the House this year, but will not gain the Democratic support necessary to meet the 60-vote filibuster threshold in the Senate. Given the need for Democratic support, a Senate reform bill will likely be a bipartisan compromise and fall short of hardline conservative expectations, but could include incremental reforms to soften or repeal the Volcker Rule and/or include regulatory relief for community banks.

Bank stocks soared in the weeks following the election on expectations of higher interest rates, less regulation, and stronger economic growth, but President Trump's executive orders are only the first step in a long process to roll back Dodd-Frank. The executive orders did not directly repeal any rules, but rather directed parts of the government to review rules and make recommendations. For any substantive regulatory reform, President Trump will need Congress to pass legislation, or the support of the remaining Obama-appointed regulatory heads to slow down the rulemaking

and enforcement processes.

Tensions between Democrats and Republicans have already escalated sharply. In early February, the Senate fell into disarray as Democrats sought to block the advancement of the President's nominees out of committee. Republicans used a procedural maneuver to ultimately bypass the Democrat's boycott, but in doing so set the stage for time-consuming floor debates on the President's nominees, a volatile confirmation process for Supreme Court nominee Neil Gorsuch, and the use of brinkmanship debate tactics in upcoming fiscal fights. Although Judge Gorsuch – who has vocally opposed court interference in policymaking functions of the legislative and executive branches – was easily confirmed to his current seat in 2006, he will face strong opposition from Democrats, who remain angry over Republicans' treatment of Obama's Supreme Court nominee Merrick Garland. Trump has already urged Senate Majority Leader McConnell to extend the "nuclear option" to Supreme Court nominees if Democrats block Gorsuch.

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