Trump's First 100 Days: Bankruptcy & Creditors' Rights

Analysis of New Administration
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During his campaign, President-elect Donald Trump indicated he would make major policy changes with significant impact within the agricultural, international trade, health care, financial and energy sectors. As is common with any large-scale, rapid change in economic policy or federal regulation, Trump's promised changes are likely to create distress for some industry participants and strategic advantage and opportunity for others.

AT A GLANCE

- While the details and timing of anticipated tariffs are unknown, we can anticipate that a more protectionist approach to trade may affect profitability, disrupt supply chains, or otherwise increase challenges and costs for certain sectors or lines of business within them, leading to an increased rate of insolvency.
- Banks may experience reduced capital requirements and see new incentives along with regulatory easing in the areas of digital assets, cryptocurrency and financial technology, possibly allowing lenders to extend more credit to distressed entities.
- Mass deportations may have an immediate impact on dairy, meatpacking and other sectors that employ large numbers of migrant workers.

TARIFFS

Trump has promised to implement large-scale tariffs. While the details and timing of such tariffs are not known at this time, from a historical perspective, we can anticipate that a more protectionist approach to trade may affect profitability, disrupt supply chains, or otherwise increase challenges and costs for certain sectors or lines of business within them. This could very well, in turn, lead to an increased rate of distress or insolvency, particularly for smaller or undiversified businesses within impacted sectors. In anticipation of this dynamic, both traditional and non-traditional lenders may exercise more caution in providing capital to participants in impacted industries and, at the same time, companies seeking to grow their domestic holdings or operations within impacted sectors may find more opportunities to acquire assets at distressed (lower) prices.

Supply Chain Issues

Increases in tariffs may lead to sourcing issues for U.S. companies that rely on international goods, particularly if such goods are being shipped from Asia. Logistics companies expect to see a "front-loading" of international shipments in late 2024 and early 2025 because new and substantial tariffs may become effective as early as February or March 2025. Not all companies that source goods internationally will have the capital necessary to pre-order their supply, however, and it is thus reasonable to expect an increased rate of financial distress, or an acceleration of pre-existing financial distress in companies that are unable to do so. Companies that are surprised by supply chain disruptions are similarly more likely to experience higher costs, decreased profitability and distress.

Impacted Industries

Although challenging to predict with certainty, industries reliant on either products or components sourced in Asia are the most likely to experience supply chain and/or profitability issues as a result of Trump's anticipated new tariffs. Those industries include consumer electronics, semiconductors, apparel and textiles, automotive (electric vehicles in particular), machinery and equipment, furniture, toys and sporting goods.

FINANCIAL DEREGULATION

Trump's campaign expressed an intent to change the landscape of financial regulation in the United States. Banks may experience reduced capital requirements and see new incentives along with regulatory easing in the areas of digital assets, cryptocurrency and financial technology. Leadership within the Federal Reserve is expected to remain in place for the time being, but the United States is virtually certain to see new leadership and the stalling of pending regulation, or even deregulation, within the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, and the Consumer Financial Protection Bureau.

The impact of anticipated changes could include increased capital availability and increased ability for traditional lenders to extend or carry credit for distressed entities. It also appears very possible, if not likely, that significant growth will occur for non-traditional lenders as the market experiences a material increase in lending facilities based on cryptocurrency or secured by non-traditional (digital) collateral due to government incentives and a decrease in regulation applicable to digital currencies and other forms of digital assets.

MASS DEPORTATIONS

During his campaign, Trump indicated that, if elected, he would remove a large number of migrant workers from the United States within a short timeframe after taking office. The impact of such an initiative could be very significant within certain economic sectors.

Agriculture

An estimated two million people are employed as farm workers in the United States and, according to the U.S. Department of Agriculture (USDA) and U.S. Department of Labor, nearly half of such workers lack legal status. The mass deportation of farm workers could create a labor crisis in the agricultural sector, greatly increase labor costs for U.S. farmers and lead to widespread decreases in profitability or distress and insolvency. According to the USDA, approximately 97% of farms in the United States are family-owned and operated and 88% are considered "small family farms," with gross incomes of less than $350,000 annually. Because small family farms tend to operate within tight margins, and also tend to be less mechanized than larger farming operations, small family farms may be hit the hardest by a sudden loss of available laborers, leading to a material increase in loan facility defaults, Chapter 12 bankruptcy filings and, ultimately, the consolidation of smaller farming operations into larger ones.

Dairy and Meatpacking

The dairy and meatpacking industries also rely, disproportionately, on immigrant labor and, as a result, could be negatively impacted by mass deportations in a manner similar to small farming operations. Like small family farms, smaller-scale dairy and meatpacking operations may experience the largest impact with defaults and ultimately consolidation becoming more commonplace.

Secondary Impacts

A secondary, negative impact of large-scale labor shortages in the agricultural, dairy and meatpacking industries could be experienced by grocery and livestock operations. If food supplies are reduced as labor adjustments in the agricultural, dairy and meatpacking industries play out, grocers are likely to have difficulty maintaining supply and keeping up with rising prices, and livestock operations are likely to experience challenges in securing or financing feed for their inventories. Operations with tighter margins, or that are already experiencing some level of financial distress, are most likely to be negatively impacted by these potential events. Consumers could also experience a significant rise in the price of food-related products.

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This article is part of a broader analysis examining the anticipated challenges and opportunities created by an administration change. Attorneys from several different practice areas contributed to this series of articles across multiple legal areas.

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