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News & Insights

Trump's First 100 Days: Corporate Finance

Analysis of New Administration
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The Trump administration will likely reverse course on many of the Biden administration's regulatory efforts, creating a more business-friendly environment with a net positive impact on dealmaking and capital markets activity.

AT A GLANCE

- President-elect Trump is expected to push Congress for an extension of certain provisions of the Tax Cuts and Jobs Act (TCJA) that would otherwise expire in 2025, such as reduced individual income tax rates. Trump is also expected to advocate for further reductions to the corporate income tax rate.
- The Securities and Exchange Commission (SEC) will likely focus more on enforcement of current rules than new rulemaking, returning to its "bread-and-butter" of general fraud enforcement.
- The incoming administration has a more positive view of private equity, and the Department of Justice (DOJ) is expected to treat strategic and financial buyers neutrally, as it did during Trump's first term.

DEALMAKING AND CAPITAL MARKETS

The incoming Trump administration's proposed policy changes are expected to have a net positive impact on dealmaking and capital markets activity. This administration will likely reverse course on many of the Biden administration's regulatory efforts to create a more business-friendly environment. Trump is also expected to work with Congress to extend many of the favorable provisions of the TCJA that are set to expire in 2025, such as the reduced individual income tax rates, and to push for a further reduced corporate income tax rate, especially for businesses that create goods in the United States. At the same time, Trump has stated that he will introduce tariffs, which would make the supply chain more expensive for U.S. businesses and possibly increase inflation.

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Trump may implement some of these changes directly through executive orders and others indirectly through appointments. Here are some of the key changes we are tracking that the Trump administration may make that would affect dealmaking and capital markets activity.

TAX POLICY

Proposed cuts in the corporate income tax rate could affect the relative tax-efficiency of different entity types, perhaps leading to an increased use of corporate structures as compared to pass-through structures utilizing limited liability companies that are disregarded entities or classified as partnerships for income tax purposes. The incoming administration, with a Republican majority in Congress, is expected to make certain provisions of the TCJA permanent, including the reduced individual income tax rates, which cap the top individual income tax rate at 37%. The special 20% deduction for ″qualified business income″ (which, in general, is active business income earned by a pass-through entity or proprietorship) is also expected to become permanent. Finally, Trump is expected to push for a lower general corporate income tax rate, and an especially low tax rate – perhaps as low as 15% – for corporations that manufacture products in the U.S.

MERGERS & ACQUISITIONS

Antitrust targeting will likely ease under the new administration, except against bipartisan targets, like the health care and technology sectors. Trump is expected to quickly replace Lina Khan as chair of the Federal Trade Commission (FTC) and recently announced that he will nominate Gail Slater to replace Jonathan Kanter as head of the Antitrust Division of the DOJ. Slater is known as a Big Tech critic and has confirmed that Big Tech is likely to remain an antitrust target. But despite the bipartisan focus on Big Tech, the DOJ and FTC under the Trump administration are likely to return to a more traditional economic analysis in merger review and enforcement, moving away from the novel theories of harm that Khan and Kanter utilized. Many companies appear poised to engage in more M&A activity due to this expected shift in antitrust enforcement approach, as the reduced risk of regulatory interference may reduce the time and cost of transactions.

If tariffs on foreign goods are introduced, companies may engage in more U.S.-based M&A. Trump has proposed "universal baseline tariffs on most foreign products" of 10%, and specific tariffs of up to 60% on Chinese products. Trump has also stated that he will impose a 25% tariff on all products from Mexico and Canada. An increase in tariffs on foreign goods could make the supply chain more expensive, which could cause companies to reorganize their supply chains by "onshoring" production back to the United States, or at least out of China and other high-tariff countries. U.S. and foreign companies alike may react to these tariffs by acquiring or building manufacturing facilities in the United States.

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PUBLIC COMPANIES

The extent of mandatory disclosure for Exchange Act-reporting companies will likely be reduced. Specifically, the incoming administration is expected to roll back the recently-passed climate disclosure rules—or at least instruct government lawyers not to defend them in court. This would reduce reporting costs for companies that would otherwise be required to investigate and report certain climate-related risks to investors. The SEC's new disclosure rule on cybersecurity risk is also a target for the Trump administration to roll back.

The SEC will likely focus more on enforcement of current rules than new rulemaking. The SEC is expected to halt its aggressive rulemaking and enforcement agenda under current Chair Gary Gensler and instead return to its "bread-and-butter" of general fraud enforcement. Gensler will step down as Chair effective at 12:00 p.m. ET on Jan. 20, 2025, the day of Trump's inauguration. Paul Atkins, a former SEC Commissioner under George W. Bush, will assume the role after he is confirmed. Atkins, who as a Commissioner opposed regulations he believed would thwart competition, is expected to take an approach that is more pro-business and pro-capital markets than Gensler's. Atkins has argued against fines and regulations that would increase the costs for public companies and investors and has stated that the lack of clarity regarding crypto regulation is a "fundamental underlying issue" for the SEC to address.

PRIVATE EQUITY

The new administration will likely view private equity less skeptically than the Biden administration, which focused more of its antitrust attention on serial acquirers. Under the prior Trump administration, the DOJ treated strategic and financial buyers neutrally. The incoming administration is expected to return to this neutral standard.

The FTC's rule banning employee noncompete agreements may be rescinded or weakened. Although Trump has not spoken directly on the matter, Trump may appoint commissioners to the FTC who would rescind the rule or instruct government lawyers not to defend the rule in court.

VENTURE CAPITAL

The incoming administration will likely be more crypto-friendly than the Biden administration, which may reduce the risk of investing in the crypto space. Atkins has worked closely with various cryptocurrency firms and organizations to develop regulatory best practices, is expected to advocate for less aggressive enforcement and for regulations that are more crypto-friendly. Current SEC Commissioners Hester Peirce and Mark Uyeda have also advocated for a less disruptive approach to cryptocurrency than Gensler's "regulation by enforcement" approach. Peirce and Uyeda, who will remain as Commissioners alongside Atkins, would prefer to halt the aggressive enforcement campaign and instead collaborate with other agencies or Congress to create a more transparent and structured regulatory framework.

Venture capital firms may also find new opportunities to invest in climate-tech startups, as an expected decrease in federal support for climate-related businesses is expected to create an investment vacuum in this space.

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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