Risk and Regulatory
Newsletter

by siapartners

President Trump: The First 100 Days

"The only thing we have to fear is fear itself," proclaimed newly-minted President Franklin Delano Roosevelt during his first inaugural address in 1933. A time when the United States was considered to be at the lowest of lows, F.D.R. touted optimism and government action when they were all but non-existent. F.D.R's first term was the beginning of the legendary "First 100 Days," a benchmark by which all subsequent Presidents would be measured. Since F.D.R, the importance of the 'First 100 Days' has persisted as the honeymoon phase for every new presidency, representing a basis for forecasting the tone of the new President's term in office and how many of those campaign "promises" will manifest into truth and how many of his goals will be accomplished.

President Donald Trump's first 100 days has been overshadowed by hype, overreaction, and controversial rhetoric. All of which seems unavoidable because of the excessive media coverage surrounding the election and now Trump's presidential term. Trump's presidential campaign was full of talk of tax reform, repealing and replacing Obamacare, bringing jobs back to the U.S. and reforming the regulation plaguing this country's financial industry since the passing of the Dodd-Frank Act. Now as the presidential term hits its 100th day, healthcare and tax reform have been in the forefront of the President's agenda. Both of these issues have been garnering most of the media coverage and debates amongst the public, the various talking heads, politicos and legislative members; all while Wall Street reform has taken somewhat of a backseat. Wall Street reform is definitely taking a much slower and more methodical approach to reform compared to what was promised during the campaign.

President Trump made many promises during his campaign and following his inauguration, one such promise was to scale-back financial regulation, including the repeal or modification of the Dodd-Frank Act as well as ensuring that the Department of Labor's ("DOL") Fiduciary Rule undergoes a comprehensive review. President Trump's financial and regulatory directives have wide-reaching implications for the Financial Services industry. As of Trump's 100 day mark, not all promises have come to fruition. Sia Partners has reviewed where progress and change has been made, where future change may occur, and how agency appointments can help to decipher what is on the financial reform agenda for the remaining tenure of Trump's presidency.

Progression of Trump's Financial Services Regulatory Agenda

As Sia Partners alluded to in mid-January in "Impact of the Trump Administration," which provided an analysis on what to expect for President Trump's presidency with respect to the regulatory landscape, the process has proven more difficult than President Trump initially believed . President Trump is realizing that he's not the President of a company, but rather more like the Chairman of a Board, and his Board consists of 535 members, all of whom he must work with and garner support for his agenda. President Trump is learning that he needs to adapt to Washington and operate within the political system in order to accomplish his goals and complete his agenda. If not, President Trump's agenda is at risk.

While the first financial reform action occurred immediately after his inauguration, the most definitive one occurred on February 3rd, with President Trump's Executive Order titled "Core Principles for Regulating the United States Financial System." This Order mandated the Secretary of Treasury, Steven Mnuchin, to consult with the heads of the member agencies of the Financial Stability Oversight Council and to identify which laws, regulations, or other requirements uphold the 'Core Principles' as defined in the February 3rd Executive Order and which inhibit Federal regulation of the financial system in a manner consistent with the 'Core Principles.' This mandate gave Secretary Mnuchin 120 days to report back to the President with the details of his findings.

The 'Core Principles' are a set of concepts that the administration will use for regulating the financial system, and it is made up of the following criteria[1]:

- Empower Americans to make independent financial decisions and informed choices in the marketplace, save for retirement, and build individual wealth;
- Prevent taxpayer-funded bailouts;
- Foster economic growth and vibrant financial markets through more rigorous regulatory impact analysis that addresses systemic risk and market failures, such as moral hazard and information asymmetry;
- Enable American companies to be competitive with foreign firms in domestic and foreign markets;
- Advance American interests in international financial regulatory negotiations and meeting;
- Make regulation efficient, effective, and appropriately tailored; and
- Restore public accountability within Federal financial regulatory agencies and rationalize the Federal financial regulatory framework.

While noted earlier, financial regulatory reform has taken somewhat of a backseat, it is still being progressed and the groundwork and the foundation of this reform is being laid. This is evidenced by the recent release and approval by the House Financial Services Committee of the updated Financial CHOICE Act's discussion draft and a Congressional vote expected this summer. President Trump's first 100 days has yielded less than expected results, however, we anticipate significantly more action in the year to come and not just with legislative action but President Trump still has hundreds of open political appointments, which he will need to address soon.

Additionally, President Trump and his cabinet have been garnering support among senior executives in all industries. Recently, JP Morgan Chase CEO Jamie Dimon echoed President Trump's message in his annual shareholder letter, stating that "poorly conceived and uncoordinated regulations have damaged our economy, inhibiting jobs and growth - and this has hurt the average American."[2] This type of support in the financial industry is what President Trump has been lobbying for since day one.

In the following sections, Sia Partners outlines four major financial regulatory initiatives that were discussed throughout the campaign, including the overall regulatory environment, the Dodd-Frank Act, the Financial CHOICE Act, and the DOL's Fiduciary Rule, how they have progressed over the first 100 days of Trump's presidency, and our expectations for the future.

Overall Regulatory Environment

Proposed Agenda

Since last summer, then candidate Trump has consistently said he would decrease the number and complexity of regulations across all industries, including financial services, because he sees them as overly burdensome, unnecessary, and holding back the economic growth of the United States.

Status

On January 30, President Trump signed Executive Order No. 13771, "Reducing Regulation & Controlling Regulatory Costs," which instructs agencies to eliminate two regulations for every one they introduce. This was the first step in limiting the regulatory environment which President Trump believes has been inhibiting the economic growth in the United States.

[1] https://www.whitehouse.gov/the-press-office/2017/02/03/presidential-executive-order-core-principles-regulating-united-states

[2] https://www.jpmorganchase.com/corporate/annual-report/2016/

On February 3, Trump issued Executive Order No. 13772, "Presidential Executive Order on Core Principles for Regulating the United States Financial System," establishing the Core Principals and directing the Secretary of the Treasury to consult with the Heads of the members agencies to the Financial Stability Oversight Council to review the financial regulations, among other topics, and to report back to the President, their findings within 120 days. We expect this report, spearheaded by Treasury Secretary Steven Mnuchin, which is expected June 2017, to be a key roadmap, detailing where regulation is harming the US Economy and what might be the regulatory reform priorities for the Trump administration.

Although some would say this is not the 'action' that was expected in the first 100 days, the two Executive Orders indicate change is expected and the regulatory environment will likely be eased to provide the financial markets more freedom to operate.

Dodd-Frank Act

Proposed Agenda

Since the beginning of Trump's campaign, he has consistently lobbied for the complete or partial dismantling of the Dodd-Frank Act. President Trump strongly believes that the Dodd-Frank Act unduly punishes banks with respect to the capital requirements and severely inhibits banks from lending.

> "We're doing a major elimination of the horrendous Dodd-Frank regulations, keeping some obviously but getting rid of many."
>
> *- President Donald J. Trump*

Status

Although many took President Trump's statements about a full dismantling of Dodd-Frank with a grain of salt, we are beginning to see the realization that a complete repeal will not only be foolish, but will also be incredibly difficult. President Trump has revised his view and has recently expressed that he expects "to be cutting a lot out of Dodd-Frank because, frankly, I have so many people, friends of mine, who have nice businesses who can't borrow money. They just can't get any money because the banks just won't let them borrow, because of the rules and regulations in Dodd-Frank." according to a transcript of his remarks. The promise to US community bank executives is quite simple: the administration will deliver regulatory changes to ease lending restrictions.

Support for President Trump's viewpoint was presented in April in a study[3] conducted by the Manhattan Institute which represents the first broad-scale academic assessment of financial regulation put in place during the Obama-administration. This particular study included the effects of recent regulatory mandates on banks, credit-card companies, individual borrowers and savers, and the economy as a whole. The full report will not be ready until 2018 but the initial findings presented are eye-opening, stating; "Some new regulatory measures may harm growth, constraining credit for smaller corporate borrowers without making banks safer in return. Other measures may harm competition, keeping smaller banks from becoming larger banks, thus creating a protected class of preexisting large banks." Albeit at a high level, these initial observations help support Trump's claim that the recent regulatory change may be excessive after all.

To this point, action to drive any changes in the Dodd-Frank Act has been minimal. It is anticipated that once Secretary Mnuchin's findings are delivered to the President in June, there will be a clearer picture of what will be changed within the Dodd-Frank Act as well as other regulations that are being reviewed.

Financial CHOICE Act

Proposed Agenda

While not specifically endorsed or commented on by President Trump, the Financial CHOICE Act appears to be the most likely replacement of the Dodd-Frank Act, if it were to be repealed. At the very least it serves as the Republican's roadmap to regulatory change. Sia Partners has written extensively about the Financial CHOICE Act here: Provisions of The Financial CHOICE Act.

[3] https://www.manhattan-institute.org/html/reforming-obama-era-financial-regulation-10193.html

Status

On April 19th, the House Financial Services Committee ("The Committee") Chairman, Jeb Hensarling (R-TX) released an updated version of the Financial CHOICE Act and as of May 4th, has been approved by the Committee. This version addresses many of the deficiencies in the original version. This new version faces some opposition from Democrats, in particular Maxine Waters (D-CA), who argued in an email that the Financial CHOICE Act and Republicans have "prioritized the needs of Wall Street over the needs of hard-working Americans," and "would take away much needed protections and put our economic security at risk." Further, the Chairman of the U.S. Senate Banking Committee, Sen. Mike Crapo (R., ID), said on March 30, 2017, that he hopes to pass a major piece of financial reform either in late 2017 or in early 2018. At the very least, there appears to be a large divide between the Republicans and Democrats as to whether a change is needed and what, if any, change will occur.

Department of Labor Fiduciary Rule

Proposed Agenda

Six years in the making, the Department of Labor Fiduciary Rule has significantly changed the retirement industry, even if it has not been adopted into law just yet. President Trump has said the final Fiduciary Rule as written, negatively affects the average investor, limiting their investment choices and inhibiting growth. His administration has stressed the importance of eliminating or changing the Rule in order for the retirement industry to function effectively.

Status

President Trump has moved to delay the implementation of the DOL Fiduciary Rule by six months through a Presidential Memorandum, issued on February 3rd. He instructed the DOL to carry out an economic and legal impact analysis to "examine the Fiduciary Duty Rule to determine whether it may adversely affect the ability of Americans to gain access to retirement information and financial advice.[4]"

The DOL responded on March 1st by extending the applicability date of the new DOL Fiduciary Rule to June 9th. The primary purpose of the extension is to "prepare an updated economic and legal analysis concerning the likely impact of the Fiduciary Rule as part of that examination.[5]"

Over the last three months, industry insiders have become more vocal about the Fiduciary Rule and its potential harmful effects. The Chief Executive of Vanguard, William McNabb, sent a letter to the Department of Labor recently, stating that the company "strongly believes that investors should always receive investment advice that is in their best interest, and those who provide investment advice should be held to a fiduciary standard.[6]" We believe that many would agree with this point; however, McNabb followed this up by stating that the Rule "harms investors through reduced access to products, information and advice and is likely to unnecessarily increase litigation and cost to investors seeking retirement services." Industry experts and insiders have all acknowledged that a full repeal would not benefit investors but rather a more surgical "tweak" is what is required to get the new Fiduciary Rule correct.

Many hurdles still exist for a full repeal (which we believe is unlikely) or even targeted changes however, the industry has been moving in this direction for many years and many large wealth managers, such as Merrill Lynch, are already restructuring their retirement units to include only fee-based accounts and eliminate the commission-based approach. Not only is this beneficial in complying with a potential Fiduciary Rule, but this subsequently increasing profits for many banks. Research firm Morningstar, recently said that fee-based accounts can yield as much as 50% more revenue than commission accounts.

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[4] https://www.whitehouse.gov/the-press-office/2017/02/03/presidential-memorandum-fiduciary-duty-rule
[5] https://www.dol.gov/newsroom/releases/ebsa/ebsa20170301
[6] http://www.marketwatch.com/story/vanguard-calls-for-tweaks-to-the-fiduciary-rule-2017-04-18

Financial Appointments

Trump's financial appointments are of significant interest to the financial industry as his choices will set the tone for how the industry will be regulated.

Seat	Appointee/Status	Comment
Treasury Secretary	Steven Mnuchin (Confirmed)	Mnuchin, a former Goldman Sachs executive, strongly supports Trump's deregulation initiatives and has been directed by Trump to review and report on financial regulations.
Labor Secretary	R. Alexander Acosta (Confirmed)	During a meeting with the Senate Committee on Health, Education, Labor, and Pensions, Acosta was vague on whether or not he supported the DOL Fiduciary Rule, but stated that he will follow Trumps directive and review the Rule, once confirmed.
SEC Chairman	Jay Clayton (Confirmed)	Jay Clayton has a Wall Street background, as opposed to his two predecessors, who had regulatory and enforcement backgrounds. This will likely lead to a more "business friendly" environment.
CFTC Chairman	J. Christopher Giancarlo (Not Confirmed*)	Giancarlo was nominated as a CFTC commissioner by President Obama in 2013 and confirmed by U.S. Senate in 2014. Trump named Giancarlo as acting chairman on January 20th, 2017 and was formally nominated for the role on March 14, 2017. Giancarlo has been critical of the Dodd-Frank Act and the CFTC's implementation of its requirements.
OCC	Thomas J. Curry (Legacy)	The current Comptroller of the Currency's term expired April 2017. Thomas J. Curry will step down on May 5, 2017, and Keith A. Noreika will serve as Acting Comptroller of the Currency
FDIC Chairman	Martin J. Gruenberg (Legacy)	The current FDIC chairman's term expires in November 2017.
FRB Chairman	Janet Yellen (Legacy)	The current FRB chairwoman's term expires in February 2018.

*As of May 4, 2017

What's Next?

By early June, Trump should have a report from the Treasury Secretary which identifies which laws, regulations, or other requirements uphold the 'Core Principles' and which inhibit Federal regulation of the financial system in a manner consistent with the 'Core Principles'. This will be a key document in shaping Trump's regulatory initiatives.

As we move past the first 100 days, we expect Trump's vision to begin to come to fruition. The groundwork for his vision has been laid, and through the appointment of his team and his Executive Orders, Trump's presidency is starting to take shape.

"I've done a lot. I've done more than any other president in the first 100 days and I think the first 100 days is an artificial barrier."

- President Donald Trump

Sia Partners US Recent Assignments

AML Sanctions Monitoring - Fircosoft Implementation (Global Foreign Bank) *New*
Assist Compliance and the IT Group with the systems implementation including UAT/Regression testing, model development/tuning and design of the BAU Policies and Procedures for sanctions monitoring

Cybersecurity FFIEC Management Booklet Procedures Review (Global Foreign Bank) *New*
Independent review of the IT Program for a global banking entity to identify potential gaps using the 2015 FFIEC Management Booklet as guidance

Anti-Money Laundering Transaction Monitoring Remediation (Global Foreign Bank) *New*
Assist AML and Payment teams with the development of procedures and policies for the transaction monitoring compliance program. Develop payment flow diagrams for assessment review against program compliance matrix.

New York DFS - Part 504 Certification Compliance Review (Global Foreign Bank) *New*
Review of the sanctions filtering and transaction monitoring program to ensure the banking entity is adhering to the final New York State Department of Financial Services Part 504 Anti-Money Laundering requirements

Cybersecurity IT Vulnerability Scan and Incident Response Plan Testing (Global Foreign Bank) *New*
Perform comprehensive penetration testing to prevent cyberattacks, and perform incident response plan testing to review the effectiveness of carrying out the Incident Response Plan as required by FINCEN

Liquidity Stress Testing Model Review (Global Foreign Bank)
Review the existing documentation relating to the models, starting with the "best in class" model, and then for all models and identify gaps, inefficiencies and weaknesses, based on documentation (e.g., missing controls, lack of documentation, etc.) and interviews with key stakeholders

Regulatory Capital Project – Implementation of Basel III Capital Requirements US FED and UK PRA (Global US Entity)
Perform a gap analysis for PRA Basel III and FED Basel III regulations. Identify limitations and required customization; define/specify/design: the required data, input templates, loading architecture and calculation and report generation

Anti-Money Laundering Review within Financial Intelligence Unit (Global Foreign Bank)
Evaluate transaction monitoring systems activity with the business and Compliance globally to identify, investigate and escalate transactions that represent unusual or potentially suspicious activity. Evaluate KYC compliance.

Title VII CFTC Remediation & SEC Swap Dealer Subject Matter Advisor (2 separate project at Global Foreign Banks)
Subject matter advisory services regarding Swap Dealer planning, management and remediation actions. Evaluate SEC Swap Dealer strategic solutions and planning with senior management.

NFA Examination Preparation work (Global Foreign Bank)
Providing subject matter advisory and remediation services to ensure client is compliant with the CFTC Swap Dealer rules and requirements in advance of an NFA Examination.

Data Quality Issue Management and Resolution (Global Foreign Bank)
Identify issues through formal DQ monitoring, manual adjustment remediation, project-related QC activities while communicating with business process owner/data consumer. Manage issue escalation, priority, resolution and reporting. Complete Root Cause Analysis in conjunction with Operations, Finance and Risk SMEs.

Sia Partners US Recent Blog Articles

Do Banks have an AML Problem with IOLTA?
"IOLTA provides Financial Institutions the means of assisting lawyers by pooling the accounts of their under-privileged clients to reduce their legal expenses. But while it may seem that lawyers bear the responsibility to maintain the accounts in question, banks must ensure that their onboarding and anti-money laundering ("AML") controls are in place and functioning properly." - **To read more..**

Foreign Corrupt Practices Act ("FCPA"): What to Know for 2017
"The FCPA's jurisdiction has been expanding for the past decade. Non-U.S. countries now need to be aware of this crucial U.S. regulation. A strong FCPA compliance program and a "culture of compliance" can help your firm successfully face the challenges presented by the FCPA domestically and abroad." - **To read more...**

Update: Relief for Compliance with Variation Margin Requirements
"The margin requirements for non-centrally cleared derivatives set out minimum requirements for the amount, types, frequency and method of exchange of collateral securing payment obligations on non-centrally cleared derivatives contracts. Taking into account the legal and operational challenges, regulators have phased-in the requirements, imposing earlier adoption of both the initial margin regime and variation margin regime on larger swap dealers beginning September 1, 2016 followed by broader market adoption for the Variation Margin requirements for all financial institutions on March 1, 2017. Recently, considering complexities in implementing the rules by March 1, 2017, regulators have issued statements offering compliance relief or relaxing enforcement. "- **To read more..**

Proposed Regulation - New York State Department of Financial Services Cybersecurity Requirements for Financial Services Companies
"On December 28, 2016, the New York State Register published the New York Department of Financial Services (the "DFS") revised proposal for the Cybersecurity Requirements for Financial Services Companies ("Revised Proposed Regulations"). Similar to the original proposed Rule, the Revised Proposed Regulations would require banks, insurance companies, and other financial services institutions regulated by the DFS ("Covered Entities") to establish and maintain a cybersecurity program." - **To read more...**

Sia Partners produced an updated report when the NY DFS Part 500 rules became final - the article can be found **HERE.**

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Founded in 1999, Sia Partners is an independent global management consulting firm with over 850 consultants and an annual turnover of USD 155 million. The Group has 20 offices in 15 countries, including the U.S., its second biggest market. Sia Partners is renowned for its sharp expertise in the Energy, Banking, Insurance, Telecoms and Transportation sectors.

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