09 November 2016

Government Relations Alert

The surprise election of Donald Trump as President — and the near Republican sweep of contested U.S. Senate elections — have ushered in a new-world order in the United States that heralds significant and sweeping policy changes. Here is a quick review of the new political landscape, and what we can expect for the remainder of 2016 and the year ahead.

The New U.S. Political Landscape

The Executive Branch

Republican candidate Donald J. Trump has been elected with at least 279 electoral votes. At press time former Senator and Secretary of State Hillary R. Clinton won 228 electoral votes, with 31 electoral votes from the states of New Hampshire, Michigan and Arizona not yet assigned.

We expect to start receiving information in the coming days of President-elect Trump's nominees for his cabinet and other key executive branch positions.

The Legislative Branch

At press time Republicans have lost just two seats in the U.S. Senate, a surprising outcome given many projections suggested a likely shift in control of the Senate to the Democrats. In some of the most contested races, Richard Burr (R-NC), Marco Rubio (R-FL), Roy Blunt (R-MO), Pat Toomey (R-PA), and Ron Johnson (R-WI), all retained their seats, with only Mark Kirk (R-IL) losing his seat to Representative Tammy Duckworth (D-IL).

In New Hampshire, Republican Senator Kelly Ayotte lost her election to Democratic Governor Maggie Hassan, though subject to a possible recount. Louisiana faces a runoff election on 10 December 2016 for its open Senate seat between top two finishers Republican John Kennedy and Democrat Foster Campbell.

In the House of Representatives, the Democrats had a net pick-up of a handful of seats (seven at press time), including from several losing Republican incumbents, though with far fewer pickups than many had expected.

Thus, the 115th Congress at this point looks like:
**U.S. Senate:**

114th Congress: 54 Republicans, 46 Democrats (2 of these Independents caucusing with Democrats)

115th Congress: 51 (possibly 52) Republicans, 48 (possibly 49) Democrats or Independents caucusing with Democrats. New Hampshire and Louisiana elections are still not final.

**U.S. House:**

114th Congress: 247 Republicans, 186 Democrats

115th Congress: 239 Republicans, 193 Democrats (three races have not yet been called)

**Policy Outlook for Year-End 2016 and 2017**

**Lame Duck 2016 Session**

With the vast change in the political landscape coming in 2017, we expect the activity of the lame-duck Congressional session, starting next week, to be much more limited in scope than it might have been if Hillary Clinton had won the election. Since authority to fund the operations of the Federal Government expires on 9 December, the only real “must do” in the lame-duck session is the extension of this funding authority, either in a single omnibus funding package, or in several “mini-buses.” In addition, the National Defense Authorization Act will almost certainly pass Congress in early- to mid-December, and the 21st Century Cures Act may pass Congress as well. It is also possible, though not highly likely, that Congress will pass limited tax policy changes.

**2017 – New World**

We expect a frenzy of activity over the coming months to prepare for significant legislative and executive branch activities in 2017. Among the items we expect on the agenda in the Trump Administration and the 115th Congress:

- **Tax Reform.** House Speaker (and likely soon-to-be Speaker-elect for the next Congress) Paul Ryan has already indicated plans, along with House Ways and Means Chairman Kevin Brady, to move a significant tax reform bill in the next Congress. Both the Ryan/Brady tax reform blueprint and the Trump tax plan call for lower corporate and individual tax rates, and incentives for U.S.-based multinational companies to repatriate foreign earnings. This bill may move early next year, and quickly, via the budget reconciliation process, which would allow the bill to move through the Senate with only a majority vote, protected from a filibuster attempt by the Democrats.

- **Trade.** Trump pledged to renegotiate the North American Free Trade Agreement, and reset terms of trade with China and others. There is less alignment on these issues between Trump and many Congressional Republicans. It is not entirely clear how Trump will proceed,
but he does possess sufficient executive authority to take meaningful action without Congressional approval.

- **Health Care.** Trump and congressional Republicans both have pledged to repeal the Affordable Care Act (ACA, aka Obamacare). This will be a difficult task considering it will more likely involve reforming ACA rather than simple repeal. In addition, since it is unlikely that any Senate Democrats would support this effort, Republicans would likely utilize the same reconciliation process they use for tax reform to get a bill through the Senate with just a majority vote. There is also significant bipartisan interest in drug pricing reform.

- **Energy and Environment.** Trump and congressional Republicans are expected to act quickly to dismantle much if not all of the energy/environmental regulatory framework established during the Obama Presidency. During his campaign, Trump issued “An American First Energy Plan,” calling for an expansion of U.S. fossil fuel development, rescinding all of President Obama's executive actions, including his Climate Action Plan (and Clean Power Plan), and waters of the U.S. rule, stopping all payments of U.S. tax dollars to the UN climate change programs, and green-lighting the Keystone XL pipeline among many other items.

- **Financial Services.** Although candidate Trump did not issue a specific financial services proposal, he has repeatedly expressed his interest in repealing the Dodd-Frank Act and shutting down the Consumer Financial Protection Bureau. We expect Congressional Republicans to move legislation to achieve these goals as well, but the Senate Democrats’ ability to stop any bill in the Senate that does not have 60 supporting votes will likely make compromise with the Democrats necessary in order to get legislation signed into law.

- **Infrastructure.** Trump has proposed a US$1 trillion infrastructure spending plan to improve America's roads, bridges, airports, water, electricity grid, telecommunications networks, and other infrastructure. As part of this plan, he has proposed tax incentives to encourage private investment as well.

- **Immigration.** Trump in his campaign proposed a 10-point plan to establish new immigration controls. As part of this plan, Trump has proposed the building of a wall on the Mexican border, to be paid for by Mexico. He has also proposed significant enhancements in immigration screening and enforcement, and the suspension of “catch-and-release” policies.

**Contacts**