Banking Industry to Pursue Robust Policy Agenda

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With the new Trump Administration and Republican majorities in both the House and Senate, Republicans have complete control of the executive and legislative branches of government for the first time in 10 years. As a result, many in the banking industry are cautiously optimistic that it will be possible to enact policy changes that loosen some of the restrictive regulations that resulted from Dodd-Frank and the Obama Administration's implementation of the law. Burdensome regulation is often blamed for holding back our nation's economy and preventing a full economic recovery. With the Republican take-over of Washington, leading banking organizations, like the American Bankers Association (ABA) and the Independent Community Bankers of American (ICBA), are expected to pursue a robust policy agenda that focuses on easing regulation and improving consumers' access to credit and increasing economic growth.

Regulatory Relief

While the goal of regulations on the banking industry is to protect tax payers from risk and to create a fair marketplace for consumers, the industry seeks balance so as not to prevent banks from meeting customers' needs and being able to provide access to the credit needed to purchase a home or start a small business. Recognizing a more sympathetic administration and Congress for their issues, the banking industry is expected to push for shifting the regulatory environment from what many consider an over burdensome, one-size-fits all approach to a more tailored system. The blueprint for many of these changes will likely be the Financial Choice Act authored by outspoken Dodd-Frank critic, Jeb Hensarling (R-TX), Chairman of the House Financial Services Committee. The Committee approved the chairman's legislation on a party-line vote near the end of the last Congress The Financial Choice Act allowed large banks to be exempt from several regulatory standards in exchange for maintaining a capital ratio of at least 10 percent of their total assets. The bill also provided relief by repealing both the Durbin Amendment, which caps fees banks charge retailers for debit card transactions and the Volcker Rules, which essentially bans proprietary trading by commercial banks.

While Chairman Hensarling is expected to reintroduce his legislation this year and work to shepherd it through the House of Representatives, the fight over Dodd-Frank reform is likely to occur in the Senate where Republicans only hold 52 votes of the 60 needed to push a final bill across the finish line. Strong defenders of Dodd-Frank, like Senate Banking Committee Ranking Member Sherrod Brown (D-OH) and Senator Elizabeth Warren (D-MA) will look to use any means necessary to protect Dodd-Frank and prevent significant rollback of its provisions. As a result, moderate Democratic Senators from states easily carried by Donald Trump (many of whom serve on the Senate Banking Committee) will find themselves in a position to serve as the key swing votes as the debate plays out in the U.S. Senate.

While Democrats and Republicans tend to strongly disagree over Dodd Frank's effectiveness in regulating the nation's largest financial institutions, the need to provide relief to community banks is one of the few areas of banking policy with bipartisan support. Both Democrats and Republicans have repeatedly called upon regulators to ease capital requirements for smaller institutions and well as tailor rulemaking to reduce compliance burdens on community banks. In the prior Congress, providing regulatory relief for community banks was viewed by some as a bargaining chip to reach an agreement on larger Dodd-Frank reforms. With Republicans now in charge of both the Legislative and Executive branch and likely to be able to enact broader reforms than the Obama Administration would have allowed, that leverage is no longer necessary.

The ICBA also seeks relief from the new Trump Administration over the application of fair lending laws. ICBA cautions that community banks are threatened by a recent trend of enforcement actions despite community banks' strong compliance systems for ensuring credit decisions are fairly and uniformly applied without regard to race, gender or national origin. They argue that requiring community banks to either expand their market presence into neighboring counties or face penalties under the Fair Housing Act would force them to alter their model and sound business practices, and have made relief a top priority.

CFPB Reform

The Consumer Financial Protection Bureau has been frequently criticized by Republicans on Capitol Hill and several industry stakeholders for its prolific rulemaking and aggressive enforcement actions. The new political environment in Washington may allow critics of the Bureau to enact long sought-after changes aimed at increasing oversight of the agency and slowing the pace of new rules and regulations coming out from the CFPB. While some are calling for the CFPB to be dissolved, or for President Trump to fire Director Richard Cordray, it is unclear if Congress could muster the votes to disband the CFPB or if the President even has the authority to fire the Director. What is clear, is that legislation to shift the leadership of CFPB from a single director to five-person commission will no longer face the threat of Presidential veto and may be able to garner enough support in the Senate from Republicans and moderate Democrats to overcome a likely filibuster. Critics of the CFPB are also expected to renew their push to change the law to fund the Bureau through the annual appropriations process rather than from the Federal Reserve as a way to increase Congressional oversight over the agency.

Reshaping Regulatory Agencies

In addition to pursuit of major policy changes, the Trump administration will have the opportunity to re-shape the regulation of the industry through the appointment of new heads of four major financial services industry regulatory agencies in the next 18 months:

- **Office of the Comptroller of the Currency** - Comptroller Thomas Curry's term expires in March 2017;
- **Federal Deposit Insurance Corporation** - Chairman Martin Gruenberg's term expires in November 2017;
- **Federal Reserve Board of Governors** - Chairman Janet Yellen's term in the chair expires in February 2018; and
- **Consumer Financial Protection Bureau** - Director Richard Cordray's term expires in July 2018.

While it may be too early to speculate who President Trump may tap for these influential posts, we can safely predict it will be the President's intent to shift away from aggressive regulatory and enforcement actions to an environment more focused on economic growth and job creation. In one of President Trump's first meetings with top American CEOs, he set a goal of reducing regulations by 75 percent. Those nominated to head the major financial services industry regulatory agencies will play an important role in working towards the goal laid out by the President.

Attorneys

James Brandell, Ph.D.

Andrew J. Buczek

Industries

Financial Industry Group

Financial Services Regulatory & Compliance