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114TH CONGRESS PREVIEW

With the 114th Congress now officially underway with the Republican Party in control of the House of Representatives and the Senate, ML Strategies will continue our tradition of offering an annual **Legislative and Regulatory Outlook** for the coming year. We expect to have that completed by January 15. In the meantime, we are providing this preview of what to look for on Capitol Hill and from the Obama Administration.

LEGISLATIVE AGENDA

The new political dynamics of the Congress will present some intriguing opportunities and challenges over the next two years. Clearly, with control of both chambers, the GOP will be looking to show as a party that it can govern effectively and will place an impetus on bringing up a range of targeted bills that are longstanding priorities for House Republicans and that could now potentially pass the GOP-controlled Senate.

For example, the House has tentatively scheduled a vote this Thursday (January 8) changing the Affordable Care Act's definition of a work week from 30 hours to 40 hours. Senate Majority Leader Mitch McConnell (R-KY) has indicated that passing this bipartisan measure – sponsored by Reps. Todd Young (R-IN) and Dan Lipinski (D-IL) – and sending it to President Obama, for either signature or veto – will be a priority for the Senate.

Majority Leader McConnell has also said that he will make approval of the Keystone XL pipeline a priority. The plan is for the Senate Energy and Natural Resources Committee to hold a Keystone pipeline hearing on Wednesday, mark-up a bill on Thursday, and bring the measure to the Senate floor sometime next week.

There is also the potential for bipartisan cooperation on Capitol Hill and with the Administration. There are five areas where we see possible cooperation between the White House and the Republicans controlling Congress, and we're calling them the "Five Ts" – Terrorism Insurance, Trade, Transportation, Tax Reform, and Telecommunications.

Terrorism Insurance: Reauthorization of the Terrorism Risk Insurance Act (TRIA) nearly crossed the finished line in the 113th Congress, but was not passed before Congress adjourned and the program expired on December 31st. Speaker Boehner has indicated that TRIA renewal will be an early priority for the new 114th Congress.

Trade: This is prime area for the new Republican majority and the Obama Administration to find an opening for cooperation on issues including Trade Promotion Authority, U.S.-E.U. and U.S.-Pacific free trade agreements, a Miscellaneous Tariff Bill, reauthorization of the Generalized System of Preferences, reauthorization of the African Growth and Opportunity Act, legislation to increase the low-value duty threshold, renewal of the Trade Adjustment Assistance program, and a Customs Reauthorization bill.

Transportation: This has been an area where the two parties have cooperated in the past, and there is a good chance that the new Congress will see a similar approach. Issues that are likely to be addressed are funding for the Highway Trust Fund (the current funding extension expires on May 31, 2015), reauthorization of the Federal Aviation Administration, reauthorization of Amtrak, reauthorization of the Surface Transportation Board, legislation related to oversight of the Federal Railroad Administration, reauthorization of the National Highway Traffic Safety Administration, drones, vehicle-to-vehicle communication, and rail congestion and safety.

Tax: House and Senate Republicans have already begun to lay the groundwork for their proposals for individual, business, and international tax reform in the coming Congress. Reform of the tax code will need to happen in the first year of the new Congress, before attention turns to the 2016 elections, or it is likely to take another three years. While at this point it is difficult to predict the final outcome, at a minimum we expect to see a tax extenders component that will eliminate some provisions while making others permanent, as well as efforts at entitlement reform, possibly via the reconciliation process.

Telecommunications: A rewrite of the Communications Act is something that the committees of jurisdiction seem serious about achieving in the new Congress. As with tax reform, some ground work has already been done, but the most likely scenario is that it could require another three years of work.

In addition to the Five Ts, there are many other areas where legislative activity is likely over the next two years, including several measures that have expiration dates:

- **Department of Homeland Security FY 2015 Appropriations** (current funding expires on February 27, 2015);
- **Sustainable Growth Rate (SGR)** or “Doc Fix” (current extension expires March 31, 2015);
- **Internet Tax Moratorium** (expires October 1, 2015); and
- **Tax Extenders package** (approximately 60 tax provisions expired on December 31, 2014).

Other measures that are time-sensitive include:

- **FY 2016 Budget Resolution** (which has a non-binding deadline of April 15);
- **Debt Ceiling** (the debt ceiling was last addressed in February 2014, when Congress suspended it until March 15, 2015 – although the Treasury Department can likely use other certain measures to extend the ceiling through August 2015);
- **FY 2016 Appropriations** (the next fiscal year begins on October 1, 2015);
- **National Defense Authorization Act** (this would be the 54th consecutive annual authorization).

Congress will also likely devote much of their time over the next two years to:

- **Immigration reform** and response to the president’s Executive Action on the issue;
- Revisions to the **Affordable Care Act**;
- Revisions to the **Dodd-Frank Wall Street Reform and Consumer Protection Act**;
- **Energy** issues, including **LNG exports, oil exports, and the Keystone XL pipeline** (the latter of which, as already noted above, will see action this week);
- **Cybersecurity, privacy, and data breach**;
- **Net Neutrality**
- **Patent reform**; and
- **Regulatory reform.**

The 113th Congress ended with a flurry of nominations being approved by the Senate, including that of the Surgeon General. Two high-profile nominations battles will take place early next year for **Attorney General** and **Secretary of Defense**, serving as proxies for GOP oversight of President Obama’s executive order on immigration and defense strategy, respectively. Further, the Republican-controlled congressional committees will no doubt be very active on oversight, with hearings in both the House and Senate throughout the 114th Congress.

We will know more about the president’s agenda when he delivers his **State of the Union** address on Tuesday, January 20th, and when he submits his **Fiscal Year 2016 budget request**. Current law

requires that the budget request be submitted to Congress sometime between the first Monday in January and the first Monday in February, although submission could slip to a later date.

REGULATORY AGENDA & ADMINISTRATION ACTIONS

Many of the most visible recent efforts on new regulations stem from implementation of the **Affordable Care Act** and the **Dodd-Frank Wall Street Reform and Consumer Protection Act**, while the Administration continues to use long-standing laws such as the **Clean Air Act** and **Clean Water Act** for implementation of its environmental agenda.

The Executive Branch agencies will continue to pursue an aggressive agenda throughout the year. The regulatory agenda for more than 60 Cabinet, Executive, and independent agencies are included in the **Unified Agenda**, which is published twice a year – in the Spring and Fall. Specific regulatory items will be discussed in more detail in our upcoming Outlook.

The Obama Administration may also act on possible **sanctions** against Iran and Russia. Senate Republicans are reported to be planning a vote on Iran sanctions sometime this month.

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