CLIENT ALERTS & INSIGHTS

# Regulatory Policy Showdown-Domestic vs. International Differences for the Trump 47 Administration

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The White House's approach to regulatory policy emerged swiftly after Inauguration Day. In many parts of the industry the new Administration started with a "buzz" of excitement. It was not hard to find talk of how the freight recession had bottomed and the back half of the year would be great. Today there seems to be less optimism when speaking with those in industry-and for a simple reason. The regulatory environment from a purely domestic perspective remains on a business-friendly trajectory, while the perspective from international business interests is far more challenging.

**Domestic Regulatory Policy-Reducing Compliance Cost and Burden**

A theme for domestic regulatory policy is the President's objective of reducing the regulatory compliance burden. In January the White House published an Executive Order describing the objective as "significantly reduce the private expenditures required to comply with Federal regulations to secure America's economic prosperity and national security and the highest possible quality of life." The strategy for achieving this objective is twofold: (1) reducing the compliance cost on regulated businesses and (2) simultaneously reducing the risk of noncompliance with an "ever-expanding morass of complicated Federal regulation."

Many will remember the Two to One deregulation initiative during the first Trump Administration, which the White House says was greatly exceeded during that term. This Administration intends to take this far further with a Ten to One initiative also announced in January. The goal is to "unleash prosperity through deregulation" by removing 10 regulations for every new regulation that goes into effect. This approach seeks to reduce incremental costs to less than zero.

Part of the effort for achieving this ambitious goal is coming in the form of dramatically reassessing active rulemaking. On Inauguration Day the White House immediately froze all new rulemaking. All pending rules not yet published were withdrawn. The effective dates for final or proposed rules already published were postponed for 60 days to permit review. The review is intended to identify any "substantial questions of fact, law, or policy" that require action to align with White House policy initiatives.

Another essential part of this effort was the recission of numerous Executive Orders from the Biden Administration. Among the revocations was Executive Order 14037 from 2021 titled "Strengthening American Leadership in Clean Cars and Trucks." This Biden Executive Order set the ambitious policy that 50% of all new passenger cars and light trucks sold in 2030 would be zero-emission vehicles. This Biden Executive Order also directed the then-current Environmental Protection Agency to develop new rules for Medium- and Heavy-Duty Engines and Vehicles for model years

2027 and beyond. President Trump's rescission of this Executive Order also requires elimination or change of ancillary actions used by the Biden Administration to implement those legacy policies.

**International Regulatory Policy-New Complexity and Cost**

A theme for the regulatory burden on international businesses, and those who service or rely upon them, has been one of increased complexity and compliance burden. An "America First" trading policy emerged in January followed by a series of tariff actions and investigations. Our industry's shipper customers have found themselves in a very difficult spot. Margins and well-developed trading relationships, even foreign investments, are under threat.

Those who had avoided tariff-related concerns came face-to-face with reality when we saw the "Liberation Day" rollout of universal and reciprocal tariffs ranging from 10% to 50% on most goods entered into the United States. The reciprocal tariffs were paused only one week, leaving 10% across-the-board tariffs on most imports except notably a 125% tariff on imports from China that has since reduced to an effective 30% duty rate. Today even those who are not importer of record are seeing impact. Many industrial shippers are receiving "tariff surcharge" type notices from their domestic suppliers. Some are receiving force majeure notices. Renegotiation of price and volume is not uncommon as relationships look to weather dramatically increased cost.

The transportation and logistics industry can, as always, be part of the solution if we are consultative. Shippers need help understanding the cost of alternate routings and modes. Service providers with customs operations are especially busy helping dig into compliance and best practices like reconfirming tariff codes. The challenge for an industry that is arguably coming out of a recession is that providing the highest-quality service cannot force shippers to do more deals and move more product at reasonable rates. Pressures on corporate transportation procurement remain to be seen.

The federal enforcement posture on these developments also remains to be seen. There may be a pause on Foreign Corrupt Practices Act prosecutions, but on the U.S. Customs side of the house there is a great deal of saber rattling. Enforcement of tariff misclassification, undervaluation, duty evasion, and all other types of noncompliance are anecdotally on the rise. Signals from the Administration are clear that CBP will seek maximum penalties for violations. Even more challenging is that the long-standing policy of observing "mitigating factors" such as a clean enforcement record will no longer be considered to possibly lower exposure for civil penalties or liquidated damages. This means that the risk of violation is higher than ever at a time when many shippers are struggling, and some with misguided ideas, to find all ways possible for mitigating duty exposure.

**Transportation Sector Expectations Going Forward**

There remains good reason for optimism within the industry from a domestic regulatory perspective. Reduced pressures on reporting, recordkeeping, fleet electrification, worker class challenges, etc., may have positive impacts. Those operations offering international modes or servicing international customers also have some reason for optimism if the value of high-quality operations can be made attractive to shippers in desperate need of help right now. The broader economic picture at this point is anybody's guess.

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