

Roundtable on Geopolitical Risks and Effective Response Strategies

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On May 4, 2017, 15 business leaders gathered at Skadden's Palo Alto office to discuss the current political and policy environments in the U.S. and abroad, as well as their implications for the technology sector. Participants shared their views on political lessons from the 2016 election, developments in Washington, D.C. since then and how companies are responding. Skadden partner Ivan Schlager and DJ Peterson, president and founder of Longview Global Advisors, led the conversation.

The Early Days of the Trump Administration

Donald Trump is unlike any other Republican or president in recent times; his first few months in office have been jarring.

- To paraphrase former House Speaker Tip O'Neill, all politics is personal. Understanding who is in a position of influence is critical. Key economic policymakers include Treasury Secretary Steven Mnuchin, Commerce Secretary Wilbur Ross and U.S. Trade Representative (and retired Skadden partner) Robert Lighthizer. Defense Secretary James Mattis enjoys broad respect and has had a significant role in these early days.
- Key political positions across the government remain vacant. Thus, while the Trump administration has outlined an ambitious policy agenda on trade, tax and deregulation, important departments lack the political personnel in place to implement change.
- As a result, U.S. policy remains ad hoc, subject to uncertainty and often dependent on career bureaucrats who are reluctant to make decisions and expose themselves to political risks.
- Policy initiatives on immigration, climate, and diversity and inclusion have drawn companies into the political arena. For instance, President Trump's travel ban quickly united the tech community in support of the free movement of people and talent.

What to Watch for in the Coming Months

Despite early-stage turbulence and uncertainty, some signposts and patterns are emerging that should help guide business leaders and investors.

- Political priorities such as health care and tax reform will crowd out many other issues, including confirmation of nominees. The Treasury Department will likely be the first to fill its ranks as many second- and third-tier nominations are already in process.
- Financial sector reforms, infrastructure investment and H-1B visa reform are likely to be pushed down the road until 2018.

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Key Takeaways

- White House and government officials are beginning to impose some institutional guard rails to keep the president on track. A common phrase heard in private is, “What the president meant to say was” But don’t expect the tweet storms to dissipate, as the president will work hard to maintain his voter base.
- The White House has initiated a thorough review of bilateral and multilateral trade agreements to be released in fall 2017, just as the congressional campaign season is heating up. The political picture will look very different in 2018.
- Foreign policy crises shape every administration. Expect bumps in major trading relationships.

Implications for International Business and Transactions

- The White House will continue to use its bully pulpit approach to trade and investment policy and as a way to toggle trade relationships. Beware of political land mines: Structure transactions to minimize hot-button issues. Use an outside adviser to monitor political risks, identify sensitive issues and craft a deal.
- Expect more Section 232 national security designations to protect industries such as steel and aluminum. Automotive parts and telecoms equipment are likely candidates for additional tariffs.
- For CFIUS approvals, expect greater scrutiny overall and of Chinese investment in particular. What was possible in 2016 may not be possible in 2017. Double the timeframe for the approvals process: Current cases are moving very slowly, especially for transactions involving participation from government entities such as DARPA.

The Bigger Picture

- Western advanced economies are in the midst of a political risk supercycle, marked by a widening “field of play” and the greater probability of extreme outcomes. This new reality should be factored into business and investment strategy.
- This supercycle is rooted in slow growth, perceptions of limited economic opportunity and a “negative disruption narrative.” In the U.S., many of the populist themes aired by President Trump have a long history, with echoes in the campaign rhetoric of several presidential candidates in years past.
- In France, the Macron victory will bolster EU unity on issues such as technology regulation, taxation and Brexit negotiations. The EU also is considering an Foreign Direct Investment (FDI) review process similar to CFIUS.
- China is seeking to stabilize its relationship with Washington in the run-up to the all-important 19th Communist Party congress in the fall. After that point, trade and strategic military tensions are likely to heat up as the leadership pursues its “China First” policy.
- U.S. trade, investment and immigration moves impacting China, India, Mexico and South Korea could catalyze nationalist backlashes and retaliation in those countries.
- Micro-electronics and technology M&A transactions involving non-U.S. participants will be more challenging to clear.