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Regulatory Freeze Memorandum To Have Minimal Impact on Structured Finance Industry

On January 20, the Trump administration issued a memorandum instructing all executive departments and agencies to freeze the review and final publication of pending regulations (available here). The regulatory freeze does not directly affect the primary regulators that oversee the structured finance industry (such as the Federal Deposit Insurance Corporation (FDIC), Federal Reserve System (Fed), Office of the Comptroller of Currency (OCC), Securities and Exchange Commission (SEC), Commodity Futures Trading Commission (CFTC) and Consumer Financial Protection Bureau (CFPB)), so the immediate impact on the structured finance industry is expected to be minimal. The freeze should not apply to, for example, (1) the risk-based capital changes awaiting adoption in March by the Basel Committee on Banking Supervision; (2) the Net Stable Funding Ratio, scheduled to be adopted by the FDIC, the Fed and the OCC in the first half of 2017; (3) the Arbitration Rule, deemed in the "final rule stage" by the CFPB; or (4) the Payday Loan and Deposit Advance Product Rule, deemed in the "proposed rule stage" by the CFPB.

The regulatory freeze was anticipated by many commentators as it was one of President Trump's campaign promises to ease the regulatory burden placed upon businesses. Parallel moves have been made by other administrations, including those of President George H.W. Bush in 1992 and President Barack Obama in 2009.

However, the regulatory freeze is just the first of many memoranda, orders, policy changes and/or agency leadership changes to come—many of which could, subject to required procedural and/or legislative steps (if any), potentially have significant implications for proposed, and even existing, rules and regulations. While the Trump administration's next move regarding regulatory reform remains unknown, one thing is certain: the process has just begun.

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