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What to Expect from Trump

Changes for investment firms or more of the same?

The president of the United States may not initiate legislation, but he enjoys the authority of the bully pulpit, as well as the presidential veto. With Republican majorities in both houses and little doubt about Donald Trump's willingness to call out Congress (and individual congressmen and congresswomen), one might expect an avalanche of changes.

However, despite promises to "dismantle" Dodd-Frank, changes are likely to be piecemeal, and the extent of reform (or otherwise) won't be clear for some time.

On the one hand, there may well be a modest relaxation in some filing and disclosure obligations for private equity funds. The Investment Advisers Modernisation Act, introduced during the last Congress, garnered broad bipartisan support, and Members of Congress have stated privately that they plan to reintroduce the bill into the current Congress.

On the other hand, some bills – even if enacted – might not result in much practical change for investment firms. The Financial CHOICE Act, part of

which would have removed entirely the obligation for private equity firms to register, faces an uncertain future.

For example, a newly reintroduced bill may not contain the private equity exemption provisions; the bulk of the CHOICE Act is focused on the Volcker Rule and easing regulations on community banks. For the President, passage of those provisions would probably be sufficient to make good on his promise to deregulate.

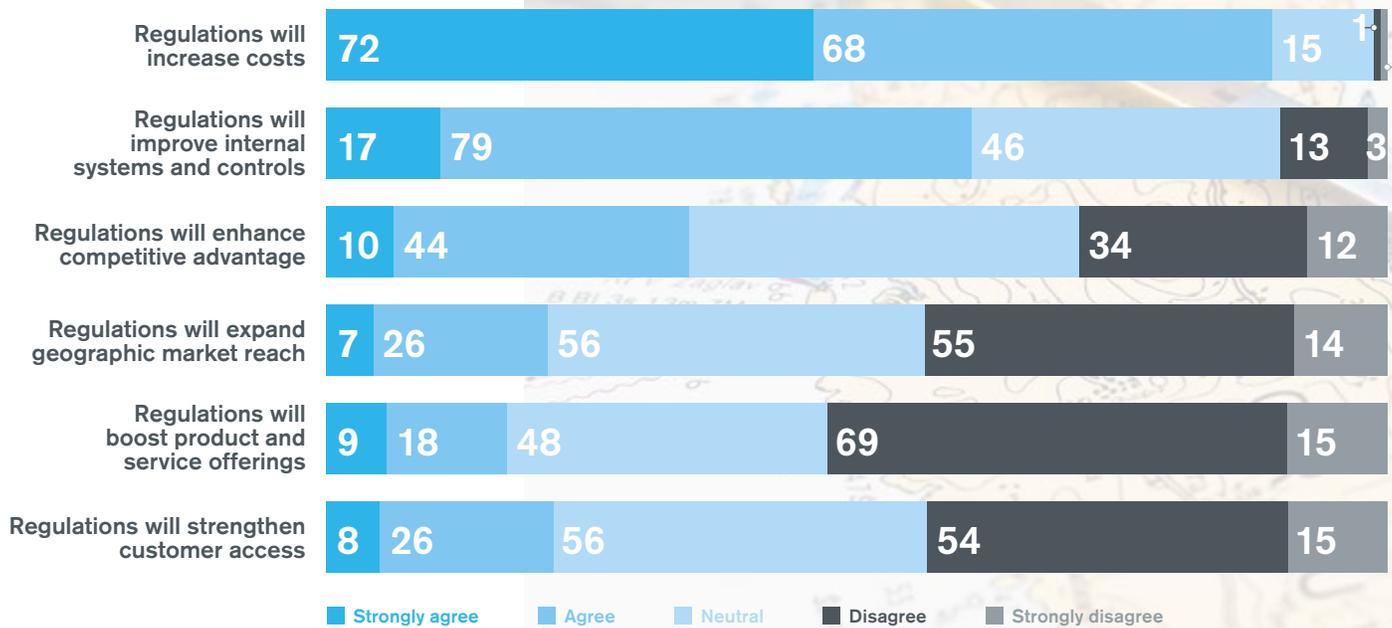
Furthermore, even if private equity firms are relieved of regulatory disclosure requirements, investors have unquestionably grown used to the level of information these firms have been required to provide. It is not likely large

institutional investors will accept less information and fewer disclosures. Notwithstanding the President's bold attempts at deregulation, he cannot be expected to unscramble the eggs.

Additionally, it will be left to the SEC to define what is meant by "private equity firm", a definition that may include an assets threshold, buyout strategy or other limitation. At a minimum, we can expect these firms to be required to continue to make certain disclosures and be required to have certain compliance policies, by virtue of existing law, the CHOICE Act, investors or all of the above.

Finally, regulators have grown adept at expanding obligations through reinterpreting existing regulation.

IMPACT OF REGULATIONS ON YOUR FIRM IN 2017



The SEC, for example, has used the traditional fiduciary duty concept to bring a variety of cases over such diverse issues as business continuity, cybersecurity, and allocation of fees and expenses, without support from any specific rules whatsoever.

Indeed, ironically, sometimes the only way to restrain regulators is through more regulation, not less. One other area where Trump’s influence may be felt, for example, is by support of a bill to ban insider trading. This would give a clear, uniform basis to the prohibition and, crucially, define to whom it applies – removing ambiguity that, rather than weakening enforcement, has allowed the SEC and Justice Department to flex their muscle in the ambiguous grey zone.