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As President-elect Donald Trump prepares to assume office in January 2025, businesses should anticipate significant changes in the regulatory landscape, particularly in the oversight and priorities of the Consumer Financial Protection Bureau ("CFPB"). This outlook is informed not only by the policies and practices of Trump's first term but also by recent statements from the President-elect, congressional Republicans and other stakeholders, which signal a strong intent to pursue deregulation and a shift in the CFPB's approach to rulemaking and enforcement.

During Trump's first administration, the CFPB underwent a dramatic transformation. Leadership changes, starting with the appointment of Mick Mulvaney as acting director, brought a marked shift in focus. The CFPB reduced its enforcement actions, prioritized voluntary compliance and streamlined its rulemaking agenda. Mulvaney's approach, which emphasized minimizing regulatory burdens on businesses, set a tone of deregulatory pragmatism that continued under his successor, Kathy Kraninger.

Despite this shift, the CFPB did not abandon enforcement entirely. It pursued key cases involving redlining and unfair practices, demonstrating that even a deregulatory administration addressed certain high-profile consumer protection issues. Meanwhile, state regulators increased scrutiny of financial institutions and consumer protection practices to fill perceived gaps.

Now, as Trump and congressional Republicans prepare to take full control of the White House, Senate and House, they are reportedly considering sweeping changes to the CFPB's powers and funding. Potential reforms may include efforts to reduce the CFPB's authority, curtail its oversight activities and revise its leadership structure. Republican lawmakers have also signaled a desire to shift the CFPB's funding source from the Federal Reserve to Congress, limiting its independence from congressional budgetary control.

The GOP's proposed reforms reflect concerns voiced by some industry stakeholders regarding the scope and impact of recent CFPB initiatives, including those targeting overdraft fees and bank switching processes. Conversely, Democrats, including Sen. Elizabeth Warren, argue that any efforts to dismantle or significantly alter the CFPB could face public resistance, as the agency remains recognized for its role in consumer protection.

Looking ahead, President-elect Trump's team has already signaled plans to continue and expand this deregulatory approach. A leadership overhaul at the CFPB is expected early in the new administration, with current Director Rohit Chopra likely to be replaced. This change will likely result in a recalibration of the CFPB's priorities, focusing on rolling back or pausing rules initiated under Chopra. Recent public statements suggest potential revisions to rules targeting digital payments, including the newly finalized "larger participant" rule, which subjects major digital payment providers like Apple Pay, Google Pay and Venmo to enhanced federal supervision. This rule is expected to face legal challenges from industry trade groups and could be deprioritized under new CFPB leadership.

The fate of the CFPB's open banking rule also remains uncertain under the incoming administration. Finalized in October 2024, the rule is intended to promote competition by giving consumers control over their financial data and making that data portable to switch service providers more easily. However, the rule is already facing court challenges from industry groups, including the Bank Policy Institute, which allege that the compliance timelines are onerous and that the CFPB overstepped its authority. A Trump-appointed CFPB director may deprioritize defending the rule, leaving its future uncertain.

Enforcement priorities are also expected to shift. The CFPB under Trump's leadership may reduce the volume of enforcement actions, favoring a less punitive and more collaborative approach. However, high-visibility issues such as elder fraud, data security and discriminatory practices could still prompt action without significant reductions, especially if public or political pressure arises.

While federal oversight may ease, businesses should remain vigilant about increased state-level regulatory activity. State attorneys general and regulators have historically stepped in to fill perceived gaps during periods of federal pullback, creating a more fragmented compliance landscape. Companies operating across jurisdictions will need to carefully navigate varying state requirements to ensure nationwide compliance.

In addition, consumer advocacy and political dynamics may influence the regulatory agenda, particularly on issues like data privacy and digital payments. Even with a scaled-back CFPB, industry players should anticipate ongoing challenges related to these high-profile issues and ensure they have rigorous policies and procedures in place to address them.

The next four years bring both challenges and opportunities. By staying informed and proactive, businesses can position themselves to thrive in this shifting regulatory environment. Steps businesses should take include:

- *Monitoring Regulatory Developments*: Stay informed about leadership changes, regulatory rollbacks and state-level initiatives. Understanding the priorities of the new CFPB leadership will be critical.
- *Strengthen Compliance Programs*: Robust compliance frameworks remain essential to address current obligations and anticipate areas of scrutiny, particularly at the state level.
- *Engaging with Legal Counsel:* Proactive engagement with regulatory counsel can provide the insights needed to navigate risks, address potential blind spots, and adapt to shifting priorities.

Schulte Roth & Zabel's lawyers are available to assist you in addressing any questions you may have regarding these developments. Please contact the Schulte Roth & Zabel lawyer with whom you usually work, or any of the following attorneys:

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