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Subject: Trump's SEC Likely To Shrink Back Where White's Expanded

PUBLIC POLICY

Thursday, November 17, 2016

TOP NEWS

Trump's SEC Likely To Shrink Back Where White's Expanded

U.S. Securities and Exchange Commission Chair Mary Jo White's signature policy of demanding admissions in cases of egregious fraud will likely remain when she steps down in January, but experts said her eventual replacement will probably pull back from her "broken windows" enforcement style and slow the agency's rulemaking flow.

Analysis

Trump's Plan To Deport 2M Immigrants Will Face Roadblocks

President-elect Donald Trump has said he plans to deport 2 million to 3 million unauthorized immigrants with criminal records, but that number is likely inflated, and experts suggest deportations could be slowed by court hearings, with some cities further complicating the process by refusing to abandon their "sanctuary" status.

DOL Persuader Rule Permanently Blocked By Texas Judge

A Texas federal judge permanently blocked the U.S. Department of Labor from enforcing a new rule expanding employers' disclosure requirements related to union-organizing campaigns, concluding Wednesday that the rule is unlawful.

Analysis

Colo. Tax Reporting Row Unlikely To Nix Physical Tie Rule

States frustrated by a U.S. Supreme Court ruling barring them from collecting transaction taxes from retailers that don't have a physical presence within their borders may be futilely relying on a petition from Colorado that the high court is unlikely to review because the case only addresses the scope and not the actual substance of the controversial ruling, experts say.

Analysis

Trump Administration Figures To Keep Sanctions Bar On Alert

President-elect Donald Trump's unpredictable approach to governance has already raised alarm on the sanctions bar as attorneys prepare for potentially drastic changes that the former real estate tycoon may pursue with regard to U.S. foreign policy toward Iran, Russia and Cuba.

FCC Cancels Business Data Services Vote After GOP Pressure

Federal Communications Commission Chairman Tom Wheeler on Wednesday heeded a call from congressional Republicans to halt action on major items during the presidential transition, dropping new rate regulations

LAW FIRMS

Alston & Bird
Arent Fox
Baker Botts
Beeson Tayer
Covington & Burling
Cravath Swaine
Davis Polk
Debevoise & Plimpton
Dentons
Earthjustice
Epstein Becker Green
Foley & Lardner
Freehill Hogan
Graves Dougherty
Greenberg Traurig
Husch Blackwell
Jacobson Burton
K&L Gates
Kaufman Dolowich
Kemp Smith
Kirkland & Ellis
Kramer Levin
Littler Mendelson
Lowenstein Sandler
Mayer Brown
McCarter & English
McGuireWoods
Mintz Levin
Morrison Cohen
Norton Rose Fulbright
Ogletree Deakins
Orrick Herrington
Pepper Hamilton
Reed Smith

in the business data services market from consideration at Thursday's agency meeting.

Don't Pass Lame-Duck Rules, House GOP Warns Agencies

House Republican leaders on Tuesday sent a letter to government agencies requesting a moratorium on passage of any pending regulations until President-elect Donald Trump's inauguration.

Citing Garland, Feinstein Vows To Scrutinize Trump AG Pick

Sen. Dianne Feinstein, D-Calif., ascended to the ranking position on the Senate Judiciary Committee on Wednesday promising to scrutinize President-elect Donald Trump's picks for attorney general and the courts, invoking Republicans' treatment of U.S. Supreme Court nominee Merrick Garland.

Senate Democrats Pick NY's Schumer As Leader

The Republicans in the Senate kept their leadership the same for the next Congress, and Sen. Chuck Schumer, D-N.Y., took on the minority leadership role on Wednesday in an election that also swept Sens. Joe Manchin and Bernie Sanders into leadership roles.

BANKING & SECURITIES

Higher Equity Levels Means Safer Banks, Minn. Fed Says

Federal Reserve Bank of Minneapolis President Neel Kashkari unveiled a plan Wednesday that he said would end the problem of too-big-to-fail banks by significantly boosting the equity capital levels they need to maintain.

ENERGY & ENVIRONMENTAL

Ex-Pa. DEP Head Raises Post-Election Climate Change Fears

The former head of Pennsylvania's Department of Environmental Protection lambasted the state General Assembly's Republican majorities and President-elect Donald Trump for their alignment on environmental issues in remarks Tuesday, but said litigation could serve as a counterweight.

Amy Corps Looks To Exit Enviros' Barge Facility Suit

The Army Corps of Engineers on Tuesday asked a Texas federal judge to toss negligence claims brought against it by an environmental group over the approval of the construction of an industrial barge facility, arguing the Corps doesn't have the authority to offer the relief the group is seeking.

DC Circ. Halts Biofuel Challenge To EPA Aircraft GHG Rule

The D.C. Circuit on Monday held in abeyance a coalition of biofuel and agricultural industry groups' challenge to the U.S. Environmental Protection Agency's recent finding that greenhouse gas emissions from aircraft endanger human health and the environment.

US Unveils Ambitious Climate Goals At UN Forum

The White House released at a United Nations meeting Wednesday an ambitious plan to "deeply decarbonize" the U.S. economy by 2050, amid growing skepticism that President-elect Donald Trump will carry on the Obama administration's commitment to climate action.

DOE Cancels Oil And Gas Leases In Mont. Tribal Area

Sedgwick LLP
Seyfarth Shaw
Smith Robertson
Sprague & Sprague
Squire Patton Boggs
Stradling Yocca
Stroock & Stroock
Thompson & Knight
Thompson Coburn
Weil Gotshal
Welder Leshin
Wilkinson Walsh
WilmerHale
Zuckerman Spaeder

COMPANIES

ALLETE Inc.
AT&T Inc.
Airbnb Inc.
AlixPartners
Altman Weil Inc.
America Fujikura Ltd.
American Cable Association
American Enterprise Institute
American Federation of Labor & Congress of Industrial Organizations
American Federation of Teachers
American Petroleum Institute
Apple Inc.
British Broadcasting Corp.
Center for Biological Diversity
Comcast Corporation
Competitive Carriers Association
Council on Foreign Relations
Devon Energy Corporation
Environmental Defense Fund
Facebook
Fannie Mae
Freddie Mac
Google Inc.
International Brotherhood of Teamsters
International Franchise Association
Intuit Inc.
JPMorgan Chase & Co.

The U.S. Department of the Interior on Wednesday said that it has canceled 15 oil and gas leases in the Badger-Two Medicine region of Montana in collaboration with Devon Energy Corp. and the Blackfeet Nation, which considers the land sacred, nearly eliminating all such leases in the area.

DOE Approves US-Canada Renewable Power Line

Minnesota Power's 224-mile cross-border transmission line received a presidential permit from the U.S. Department of Energy on Wednesday, the final major approval it needed before construction could begin on the project, which will bring renewable energy from Canada's hydropower resources to customers in Minnesota.

Groups Seek Full Record Behind FDA's GMO Salmon Approval

The U.S. Food and Drug Administration is holding back documents related to its approval of AquaBounty Technologies Inc.'s genetically engineered salmon for human consumption, a coalition of groups challenging the agency's decision told a California federal court Tuesday.

HEALTH & LIFE SCIENCES

Senator Wants DOJ To Testify At EpiPen Rebate Hearing

The chairman of the U.S. Senate Judiciary Committee on Tuesday urged the U.S. Department of Justice to change its mind and send someone to testify at an upcoming hearing looking into a settlement the DOJ reached with Mylan NV over underpaid Medicaid rebates.

REAL ESTATE

HUD Passes New Rental Assistance Rules, Skips NYC

The U.S. Department of Housing and Urban Development said Tuesday it has changed the way it calculates rental subsidies for some Section 8 voucher holders in an effort to help tenants move to more affluent neighborhoods, but the changes will not apply to New York City after objections were raised by local politicians.

EMPLOYMENT

Injunction Ruling Expected Next Week In DOL Overtime Case

A Texas federal judge said he'll decide by Nov. 22 whether to stop the U.S. Department of Labor's new overtime rules from taking effect as scheduled on Dec. 1, as 21 states and dozens of business groups push for an end to what they say is an unlawful change.

Union, NLRB Urge DC Circ. To Uphold Joint Employer Rule

The National Labor Relations Board and Teamsters Local 350 have each filed their final briefs with the D.C. Circuit backing the board's recently revised standard for determining joint employers.

Pa. Judges Want Contested Retirement Amendment Left Alone

A group of Pennsylvania state judges on Monday backed State Secretary Pedro Cortes in his defense of a recently passed amendment that increases a local judge's mandatory retirement age from 70 to 75, arguing voters agreed to the change and there is no reason to undercut their decision.

Virgin Islands Govt. Salary Law Can't Stiff Unions: 3rd Circ.

Lateral Link Group
LinkedIn Corp.
Mohegan Sun
Mortgage Bankers Association
Mylan NV
National Association of Broadcasters
National Association of Manufacturers
National Congress of American Indians
National Corn Growers Association
National Federation of Independent Business
National Indian Gaming Association
National Retail Federation Inc.
Netflix Inc.
New York Times Co.
Newegg Inc.
Overstock.com Inc.
PayPal Inc.
Sierra Club
Spotify Technology SA
Syngenta AG
T-Mobile USA Inc.
Turner Broadcasting System Inc.
Twitter Inc.
U.S. Bancorp
U.S. Chamber of Commerce
United Steelworkers
Verizon Communications
Wayfair LLC
Wells Fargo & Co.
Yahoo! Inc.
Zeughauser Group LLC

GOVERNMENT AGENCIES

Army Corps of Engineers
Blackfeet Nation
Bureau of Land Management
Centers for Medicare & Medicaid Services
Congressional Budget Office
Consumer Financial Protection Bureau
Department of Commerce

The Virgin Islands wrongly compromised government employees' collective bargaining agreements by enacting a law that unilaterally reduced salaries, the Third Circuit said Tuesday, overturning a previous decision that said the law was necessary even though it conflicted with established union contracts.

PRIVACY & CONSUMER PROTECTION

CFPB Launches Inquiry Into Consumer Financial Data Access

The Consumer Financial Protection Bureau on Thursday launched an inquiry into the problems consumers face in getting access to and sharing their digital financial information with different financial firms.

Commerce Chief Stumps For Privacy, Trade Partnerships

The head of the U.S. Department of Commerce on Wednesday pushed the Trump administration to work with private companies to tackle growing cyberthreats and the debate over law enforcement access to encrypted data — and not to give up on the Trans-Pacific Partnership.

Conservative Group Beats Calif. AG's Bid To Get Donor List

A California federal judge on Thursday granted conservative advocacy group Thomas More Law Center's bid to prevent California's attorney general from obtaining its donor list, ruling after a bench trial that allowing the donor list handover would violate the group's free speech rights.

FCC Won't Exempt Mortgage Servicing Calls Under TCPA

Mortgage servicers are banned from robocalling homeowners without express prior consent, the Federal Communications Commission ruled Tuesday, because their needs don't override consumers'.

PRODUCT LIABILITY

Sens. Call For Action On GMO Approvals At US-China Summit

As the Obama administration prepares for its last high-level trade summit with China, a group of 37 senators, including the leaders of the Senate Agriculture Committee, demanded on Tuesday that the president pressure Beijing to expedite its approval process for genetically modified crops.

DOJ Rolls Out Baseline Requirements for 'Smart Gun' Tech

The U.S. Department of Justice on Wednesday announced that it had released voluntary, baseline specifications that outline the minimum technical requirements that law enforcement agencies can expect from "smart gun" technology, as part of the Obama administration's efforts to combat gun violence.

GOVERNMENT CONTRACTS

Pa. Should Repay \$2.4M Disaster Fund Windfall, Report Says

An audit released Wednesday recommended that the Federal Emergency Management Agency recoup \$2.4 million in profits earned by Pennsylvania after investing money earmarked for pending disaster relief projects in the mid-2000s.

INTERNATIONAL TRADE

Congress Urged To Block Certain Chinese Investments In US

Equal Employment Opportunity Commission

European Commission

Executive Office of the President

Federal Bureau of Investigation

Federal Communications Commission

Federal Emergency Management Agency

Federal Reserve System

Federal Trade Commission

Fish and Wildlife Service

Food and Drug Administration

Immigration and Customs Enforcement

Internal Revenue Service

Little River Band of Ottawa Indians

Mashantucket Pequot Tribal Nation

Mohegan Tribe

NATO

National Institute of Standards and Technology

National Labor Relations Board

National Security Agency

Quinault Indian Nation

Saginaw Chippewa Indian Tribe Michigan

Securities and Exchange Commission

U.S. Army

U.S. Attorney's Office

U.S. Department of Defense

U.S. Department of Education

U.S. Department of Energy

U.S. Department of Health and Human Services

U.S. Department of Homeland Security

U.S. Department of Housing and Urban Development

U.S. Department of Justice

U.S. Department of Labor

U.S. Department of the Interior

U.S. Environmental Protection Agency

U.S. Senate

U.S. Supreme Court

In its annual address to Congress, a commission tasked with monitoring U.S.-China relations said that Chinese companies' drive to acquire U.S. assets is a "political concern," and urged the Committee on Foreign Investment in the United States to block acquisitions by Chinese state-owned enterprises.

EC Eyes 12 Trade Pacts' Potential Effects On Agriculture

The European Commission said Tuesday that once 12 expected trade agreements go into effect, by 2025, the European Union's beef and rice sectors will likely suffer while the dairy and pig sectors should see gains, although European officials acknowledged that many of the pacts are now under political attack.

BANKRUPTCY

Puerto Rico Fights Off Lift Of Stay In Bondholder Suits

A Puerto Rico federal judge on Tuesday declined to lift a stay on claims by bondholders and an insurer for the commonwealth in litigation seeking payment on hundreds of millions of dollars in obligations that were halted through executive orders, saying that allowing the claims could be detrimental to debt restructuring discussions with creditors.

IMMIGRATION

'Crime Of Violence' Clear Term, Gov't Tells Supreme Court

The federal government urged the U.S. Supreme Court Monday to overturn a Ninth Circuit ruling that the Constitution's "prohibition of vagueness in criminal statutes" applies to statutory provisions used to deport immigrants convicted of violent crimes.

NATIVE AMERICAN

Senate Urged To Exempt Tribes From NLRB Jurisdiction

A coalition of 130 Native American tribes, tribal corporations and intertribal associations urged the U.S. Senate on Tuesday to include a bill to exempt casinos and other tribal businesses from National Labor Relations Board jurisdiction in any "must-pass" legislation it considers as its current session winds down.

TELECOMMUNICATIONS

Broadcast Group Exec Calls For Ease Of Ownership Rules

The National Association of Broadcasters' chief executive, at a Tuesday luncheon sponsored by the nonprofit Media Institute, urged the Federal Communications Commission to lift media ownership restrictions.

House Panel Urged To Up Rules For The Internet Of Things

Cybersecurity experts urged a House panel Wednesday to take steps ranging from direct federal oversight to increased industry standards to help secure devices in the so-called internet of things, which has increasingly been used to facilitate cyberattacks.

FCC Mustn't Delay Post-Auction Transition, Carriers Say

Broadcasters are trying to get in the way of wireless use of spectrum after the broadcast incentive auction, the Competitive Carriers Association has told the Federal Communications Commission, saying the agency should stick to a

39-month deadline to clear the airwaves.

FCC's Rosenworcel Pressed To Act On Set-Top Box Plan

The office of FCC Commissioner Jessica Rosenworcel was hit again the day after the election with lobbying to unlock consumer set-top boxes, with lobbying group Free Press saying it is disappointed the Federal Communications Commission failed to vote on the rules in September that it also has questions about details of the proposal.

PEOPLE

Zuckerman Spaeder Nabs Obama's Ex-Top Health Atty

Zuckerman Spaeder LLP has scooped up the Obama administration's former top lawyer for health care, who predicted Wednesday that Republicans will tread lightly when overhauling the Affordable Care Act and that drugmakers will eventually get clarity regarding off-label promotion.

EXPERT ANALYSIS

OPINION: Texas Must Adhere To The 8th Amendment

When Moore v. Texas is argued on Nov. 29, the U.S. Supreme Court will have an important opportunity to reject an unscientific state-law standard that allows the wrongful and unconstitutional execution of persons with intellectual disability, according to Mark Earley, former attorney general of Virginia, and Mark White, the 43rd governor of Texas.

Make College Great Again: Higher Education In The Trump Era

With the election of Donald Trump, colleges and universities should prepare for a very different U.S. Department of Education. And not just for-profit schools stand to benefit. Let's look to the priorities of the GOP in Congress to see what may be in store, say Kenneth Salomon and Christopher Murray of Thompson Coburn LLP.

What Trump's Election Means For The ACA

President-elect Donald Trump campaigned on an unspecified promise to "repeal and replace the Affordable Care Act," but its future will not be dictated by the new White House team. Rather, it will be the result of a process factoring in the policy preferences and relative political power of Republicans and Democrats in Congress, the Trump administration, and health care stakeholders, says Philo Hall of Epstein Becker & Green PC.

FDA Draft Sheds Light On Software As A Medical Device

Companies that develop software for medical uses should be aware that the U.S. Food and Drug Administration has issued draft guidance classifying the endless variety of software as a medical device, and imposing risk-based criteria for evaluating the safety and effectiveness of such software. But a lack of detail on certain issues may be confusing for manufacturers, say Barry Boise, Sharon Klein and Katrina Long of Pepper Hamilton LLP.

Cybersecurity Forecast: Trump's 'Warfare Of The Future' Plans

During the campaign, President-elect Donald Trump did not extensively outline a cybersecurity strategy, but we can gain some insight into his agenda from information provided on his website and from his partnerships with both political and nonpolitical figures, says Meaghan Pedati of McGuireWoods LLP.

Will FCC Privacy Rules Create Challenges For ISPs?

The Federal Communications Commission's new rules limit internet service providers' usage of consumer data, which will impact their profits and pressure them to increase fees for users. However, the incoming Republican administration may ignore or even undo these rules, says John F. Stephens of Sedgwick LLP.

A Primer On The Presidential Appointee Vetting Process

With the election over, the process of selecting individuals to fill the next administration's key appointed positions is quickly shifting into high gear. For those who are called to serve in such positions, the process entails extensive vetting of professional credentials and a host of personal background check issues, say attorneys with Covington & Burling LLP.

LEGAL INDUSTRY

BigLaw Dilemma: Too Many Lawyers, Too Little Work

BigLaw is struggling with an overabundance of lawyers as demand for its services remains flat, a phenomenon experts say not only impacts firms' bottom lines but also hinders their efforts to recruit and retain top talent.

McCarter & English First-Year Atty Pay Jumps To \$150K

East Coast law firm McCarter & English LLP will increase the pay of first-year associates beginning in January, from \$135,000 per year to a minimum of \$150,000, to help compete with the trend of rising salaries across the country, the firm said Tuesday.

Rainmaker Q&A: Ogletree Deakins' Joseph Clees

Aspiring rainmakers must invest their own time learning their client's industry and business, including personal visits whenever possible. I've done everything from pilot a client-made helicopter (badly) to picking lettuce at a client facility — and enjoyed it all immensely, says Joseph Clees, shareholder at Ogletree Deakins Nash Smoak & Stewart PC.

Rainmaker Q&A: Stroock's Brett Lawrence

We tell our new associates one thing: Treat everyone senior to you as if they're your client. Mid-level associates, senior associates, partners — they're all your clients. Your job is to make their lives easier. If you get into the habit of doing that, then you'll do the same thing for your external clients, says Brett Lawrence, partner with Stroock & Stroock & Lavan LLP.

JOBS

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