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Subject: Ross Soft-Pedals Trump's Tariff Threats, Holds Firm On NAFTA

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## PUBLIC POLICY

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Thursday, January 19, 2017

#### TOP NEWS

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##### Ross Soft-Pedals Trump's Tariff Threats, Holds Firm On NAFTA

Billionaire investor Wilbur Ross said Wednesday that he would follow through with President-elect Donald Trump's vow to renegotiate NAFTA if confirmed as the next Department of Commerce secretary, but also walked back Trump's threat to impose blanket tariffs on Chinese goods.

##### State Attys Say Sessions' Record Makes Him Unfit As AG

Attorneys general in New York, Massachusetts and four other states urged U.S. senators on Wednesday to reject Jeff Sessions as the new U.S. Department of Justice head, pointing to a judge's finding of "serious and wholesale prosecutorial misconduct" when he was Alabama's state attorney.

##### Analysis

##### Obama's NLRB Legacy To Face Some Trump Reversals

Barack Obama's NLRB was a polarizing one for labor attorneys even by its own relatively partisan standards. While attorneys agree Donald Trump's board will be kinder to business than Obama's has been, attorneys tell Law360 they're unsure how far the other way the pendulum will swing.

##### Swaps Trading Is On New CFTC Chair's Radar

Soon-to-be U.S. Commodity Futures Trading Commission acting chair and current commissioner J. Christopher Giancarlo on Wednesday outlined his plans and outlook for the near future, paying special attention to a swaps trading regime he said "has caused numerous harms."

##### Gov. Haley Pushes For Stronger US Role, Reforms At UN

South Carolina Gov. Nikki Haley, President-elect Donald Trump's nominee to serve as United Nations ambassador, told a Senate panel Wednesday that the United States should be more assertive at the international body, and that she intends to drive action on the environment, refugees and sanctions enforcement.

##### Analysis

##### EB-5 Update Could Pump The Brakes On Investor Numbers

#### LAW FIRMS

Ashurst LLP  
BakerHostetler  
Ballard Spahr  
Barry McTiernan & Wedinger  
Berg Hill  
Bircham Dyson  
Brashear LLP  
Carter Ledyard  
Cary Kane  
Clyde Snow  
Covington & Burling  
Cozen O'Connor  
Crowell & Moring  
DLA Piper  
DeCotiis FitzPatrick  
DiFrancesco Bateman  
Earthjustice  
Foley & Lardner  
GluckWalrath  
Goodwin  
Graham Curtin  
Greenberg Traurig  
Greene Espel  
Hogan Lovells  
Honigman Miller  
Kellogg Huber  
Kemp Smith  
King & Wood Mallesons  
Kirkland & Ellis

The U.S. Department of Homeland Security rolled out a rule last week aimed at updating the EB-5 visa program, and while it may combat gerrymandering in the program, attorneys say the regulation may also have a chilling effect on the number of immigrant investors who can apply for the visas.

### IRS Issues Long-Awaited Proposals For Partnership Audits

The Internal Revenue Service on Wednesday released highly anticipated guidance for partnerships wondering how the agency will interpret and implement rules under a new audit regime passed by Congress more than a year ago.

### Senate Panel Sends Trump's DOD Pick To Full Body

The Senate Armed Services Committee cleared President-elect Donald Trump's pick for defense secretary, former Marine Corps Gen. James Mattis, for the full Senate on Wednesday, setting the stage for a confirmation vote hours after the new president's swearing-in.

### Atty-Legislators Are Fundraisers Before Politicians: Study

Seen as well-educated, capable and often shrewd professionals, lawyers at first glance may look a natural fit for politics, but it's their access to early fundraisers, not voter preference, that has led them to be a vastly overrepresented group in Congress, according to a recent study.

## BANKING & SECURITIES

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### SEC General Counsel To Leave Agency This Month

The U.S. Securities and Exchange Commission announced on Wednesday that its general counsel — a former WilmerHale partner — will step down later this month, ending her near-four-year tenure providing legal advice and representation to the nation's securities market watchdog.

### Coinbase Gets NY BitLicense, Clearance For Its Operations

The New York State Department of Financial Services on Tuesday handed out the fifth of its BitLicenses to Coinbase Inc., a digital currency wallet that allows buyers and sellers to complete transactions with Bitcoin and other virtual currencies, after finding that the company's policies and operations meet the state's expectations.

### GOP Says CFPB's Auto-Lending Rule May Violate Federal Law

Republicans on the House Financial Services Committee on Wednesday released a report alleging Consumer Financial Protection Bureau Director Richard Cordray violated federal law in releasing rules for regulating the auto-lending market, which comes amid an intensifying battle over Cordray's future.

### TransPerfect Workers To Push Del. To Curb Chancery Power

As the Delaware Supreme Court considered an appeal Wednesday of Chancellor Andre G. Bouchard's decision to order the sale of a legal translation firm, employees of TransPerfect protesting outside said they intend to push the First State to curb the Chancery Court's power when appointing corporate custodians.

### Tanzanian Bank Says FinCEN Hid Evidence Behind Sanctions

A Tanzanian bank fighting a Financial Crimes Enforcement Network rule that effectively excludes it from the U.S. financial system over money laundering

Clasko Immigration Law Partne  
Littler Mendelson  
Miller Mayer  
Mintz Levin  
Mishcon de Reya  
MoloLamken LLP  
Ogletree Deakins  
Parsons Behle  
Perkins Coie  
Quinn Emanuel  
Shaw Bransford  
Sidley Austin  
Snow Christensen  
Sutherland Asbill  
Thompson Coburn  
Trenk DiPasquale  
Western Environmental Law  
Center  
WilmerHale  
Winston & Strawn

## COMPANIES

21st Century Fox Inc.  
Apple Inc.  
BP p.l.c.  
BTI Consulting Group Inc.  
CBS Corporation  
Center for Biological Diversity I  
Center for Constitutional Rights  
CenturyLink Inc.  
Chevron Corporation  
Comcast Corporation  
ConocoPhillips  
Consumer Reports  
Devon Energy Corporation  
Duke Energy Corporation  
ESPN Inc.  
Experian  
Exxon Mobil Corporation  
Florida Power & Light Co.  
Google Inc.  
Grocery Manufacturers  
Association  
Home Box Office Inc.  
International Business Machine  
Corporation  
Ion Media Networks Inc.

allegations told a D.C. federal judge Tuesday that the agency secretly relied on undisclosed information, sully the record of how it developed the rule.

## ENERGY & ENVIRONMENTAL

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### Trump EPA Pick Won't Vow To Recuse Himself In Agency Suits

Oklahoma Attorney General Scott Pruitt, President-elect Donald Trump's pick to lead the U.S. Environmental Protection Agency, declined to say Wednesday whether he'd recuse himself from several pending lawsuits he filed against the agency if he is confirmed, instead leaving the matter up to the EPA's ethics counsel.

### 13 States Sue To Stop Coal Mining Stream Protection Rules

Thirteen states sued the U.S. Department of the Interior in D.C. federal court on Tuesday, alleging that federal rules finalized in December aimed at minimizing harm to surface and groundwater from coal mining operations violated the states' ability to regulate mining within their borders.

### 2nd Circ. Restores EPA's Water Transfer Exemption Rule

A divided Second Circuit panel on Wednesday revived a U.S. Environmental Protection Agency rule exempting some water transfers from Clean Water Act review, saying ambiguity within the law means the agency must be given latitude for its own interpretation of the statute.

### Enviros Take Bid To Join BLM Auction Fight To 10th Circ.

Environmental groups on Tuesday appealed to the Tenth Circuit a New Mexico federal judge's refusal to let them intervene in an oil and gas industry group's suit accusing the U.S. Bureau of Land Management of illegally failing to hold oil and gas lease auctions.

### Trenk DiPasquale Can't Escape Suit From NJ Water Agency

Trenk DiPasquale Della Fera & Sodono PC fell short Wednesday in escaping a lawsuit from a defunct Newark, New Jersey, water agency when a New Jersey federal bankruptcy judge said an attorney was qualified to provide an affidavit stating that the firm deviated from professional standards in representing the organization.

## HEALTH & LIFE SCIENCES

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### 5 Key Exchanges At HHS Nominee's Grilling

The Trump administration's proposed health secretary said Wednesday it's "absolutely imperative" that Americans not lose coverage if the Affordable Care Act is repealed, faced ethics criticism over stock trades and hinted at possible policy changes on drug prices and Medicare reimbursement. Here are five key exchanges from Wednesday's grilling.

### FDA Allows More Input On Off-Label Drug Promotion Limits

The U.S. Food and Drug Administration said Wednesday that it will give the public more time to comment on a review of agency restrictions on the off-label promotion of drugs and medical devices, an issue the FDA has recently lost on in a number of First Amendment challenges.

## TRANSPORTATION & INFRASTRUCTURE

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### Newark Beats Taxi, Limo Cos. Suit Over Uber Agreement

Kimberly-Clark Corporation  
McDonald's Corporation  
Murray Energy Corp.  
Mylan NV  
NBCUniversal Inc.  
National Association of Broadcasters  
National Association of Home Builders  
National Federation of Independent Business  
Natural Resources Defense Council  
New York State Bar Association  
New York University  
Oaktree Capital Management  
Popular Inc.  
PricewaterhouseCoopers  
Roku Inc.  
Sierra Club  
T-Mobile USA Inc.  
The DIRECTV Group, Inc.  
Thrivent Financial  
Time Warner Cable  
Tribune Company  
Turner Broadcasting System Inc.  
Twitter Inc.  
U.S. Chamber of Commerce  
Uber Technologies Inc.  
Wal-Mart Stores Inc.  
Zimmer Biomet Holdings Inc.

## GOVERNMENT AGENCIES

Bureau of Citizenship and Immigration Services  
Bureau of Industry and Security  
Bureau of Land Management  
Commodity Futures Trading Commission  
Consumer Financial Protection Bureau  
Department of Commerce  
Equal Employment Opportunity Commission  
Executive Office of the President  
Federal Bureau of Investigation  
Federal Communications Commission

The city of Newark on Wednesday beat a suit brought against it by a group of New Jersey taxicab and limousine companies over the city's agreement allowing Uber Technologies Inc. to operate outside of regulations that the taxi and limo companies must follow, after a federal judge dismissed the case.

### Feds Fight Defendants' Bid To Toss GWB Scandal Convictions

Prosecutors on Tuesday urged a New Jersey federal court to uphold the guilty verdict against two former public officials in the George Washington Bridge lane-closing trial, rejecting their bid to toss the convictions over a contentious jury instruction and allegations that some jurors deliberated when they were not supposed to.

## REAL ESTATE

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### NJ High Court Says Towns Must Meet Past Housing Needs

New Jersey towns must provide enough affordable housing to meet the need generated by low-income households that formed during a 16-year gap in which the state didn't update municipalities' obligations under the Fair Housing Act, the state Supreme Court ruled Thursday.

## EMPLOYMENT

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### States Urge 5th Circ. To Affirm OT Rule Block

Nevada, Texas and 19 other states urged the Fifth Circuit on Tuesday to affirm an injunction blocking a recent revision to the Department of Labor's overtime rule, saying the tweaks would cause "irreparable harm on a massive scale" if they took effect.

### DOL Says Fiduciary Rule Can Discourage Class Waivers

The U.S. Department of Labor told a Minnesota federal judge Tuesday that it can legally restrict an exception contained in its so-called fiduciary rule to advisers who don't prohibit clients from filing class actions, asking the judge to reject a financial planning group's challenge to the provision.

### Biz Groups That Defeated DOL Rule Win Fees

A federal judge in Texas on Wednesday awarded about \$330,000 in attorneys' fees and expenses to a handful of business groups that led a successful challenge of the U.S. Department of Labor's so-called persuader rule, which expanded employers' disclosure requirements related to union-organizing campaigns.

## GOVERNMENT CONTRACTS

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### DHS Proposes Rules For Contractors To Protect Sensitive Info

The U.S. Department of Homeland Security on Wednesday proposed rules that would expand security and privacy requirements for contractors, a move that's part of the agency's efforts to safeguard sensitive government information.

## INTERNATIONAL TRADE

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### US Launches WTO Case Over Canadian Wine Regs

Just two days before President Barack Obama is set to exit office, his administration on Wednesday filed a new World Trade Organization dispute against Canada, challenging regulations that it claims have unfairly kept U.S.

Federal Trade Commission  
Financial Crimes Enforcement Network  
Food and Drug Administration  
Government Accountability Office  
Internal Revenue Service  
Miccosukee Tribe of Indians  
Michigan Department of Treasury  
NAFTA  
NATO  
National Archives and Records Administration  
National Labor Relations Board  
New York Attorney General's Office  
New York State Department of Financial Services  
Nuclear Regulatory Commission  
Port Authority of New York & New Jersey  
Securities and Exchange Commission  
Texas Department of Housing and Community Affairs  
U.S. Department of Energy  
U.S. Department of Health and Human Services  
U.S. Department of Homeland Security  
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  
United Nations

wines from grocery store shelves in British Columbia.

## US Loosens Regs On Exports To India With Military Uses

The U.S. Department of Commerce's Bureau of Industry and Security announced Wednesday that it is loosening restrictions on exports of goods with potential military uses to India, under a strategic partnership agreement between the two nations announced in 2010.

## TAX

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### Bill To Reduce Corporate Tax Rate Introduced By Pa. Rep.

Pennsylvania state Rep. Jason Ortity announced on Wednesday that he had reintroduced legislation to gradually reduce Pennsylvania's corporate net income tax, which is currently the second-highest in the country.

### Kimberly-Clark Can't Use Tax Compact For \$3.2M Mich. Refund

A Michigan appeals court has unanimously denied Wisconsin-based global manufacturing giant Kimberly-Clark Corp.'s bid for a \$3.2 million tax refund from the state Department of Treasury, agreeing with a lower court that the company can't use the Multistate Tax Compact to calculate income in the state.

## BANKRUPTCY

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### Puerto Rico Reaches Deal On Pension Bond Payments

Holders of bonds issued by Puerto Rico's largest public pension fund reached a deal to recoup some of the money that the beleaguered territory diverted from the fund, according to a stipulation and order filed on Tuesday in Puerto Rico federal court.

## IMMIGRATION

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### DOJ Backs Bush Official On Post-9/11 Detention Policy

The federal government defended former U.S. Attorney General John Ashcroft's controversial "hold until cleared" policy for immigrants detained following the Sept. 11 terror attacks in oral arguments at the U.S. Supreme Court Wednesday, saying the Bush administration official's cautious approach didn't violate clearly established civil rights.

## TELECOMMUNICATIONS

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### FCC Auction Clears \$10B Target, Triggering Spectrum Transfer

A forward auction to reallocate spectrum licenses from broadcasters to wireless providers cleared its \$10 billion clearing target Wednesday, setting the stage to transfer 84 MHz of broadcast spectrum for wireless broadband use and the development of new wireless technology.

### GOP Lawmaker Takes Aim At FCC Station Reporting Rule

The Republican head of House Energy and Commerce's Communications and Technology Subcommittee introduced a bill Tuesday that would forcibly revoke a Federal Communications Commission ownership reporting requirement for noncommercial educational TV station board members, blasting the requirement as "onerous" and a threat to privacy.

### CBS Presses FCC To Restore Ownership Cap Exception

CBS Corp. wants the Federal Communications Commission to reinstate posthaste a break given to UHF station owners on media ownership cap rules, arguing Tuesday that the agency nixed the exception without “a shred of evidence” of public harm.

### [Inmate Call Cos. Urge DC Circ. To Wait On Rate Cap Review](#)

Inmate calling service providers on Tuesday urged the D.C. Circuit to delay its review of rate caps imposed on the companies by the Federal Communications Commission in August, in anticipation of a reversal of the policy under an incoming Republican-majority commission.

### [Comcast Subscribers Get HBO, ESPN Access Via PlayStation](#)

The head of the Federal Communications Commission's Enforcement Bureau praised Comcast on Tuesday for finally allowing subscribers to access HBO Go and WatchESPN TV Everywhere via PlayStation game consoles, following discussions with the agency.

## [EXPERT ANALYSIS](#)

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### [ADEA At 50: Trends And Predictions For An Aging Workforce](#)

Enacted on Dec. 15, 1967, the Age Discrimination in Employment Act is celebrating 50 years of protecting older workers, many with families and children requiring financial support, from unemployment and poverty. At this half-century milestone, we should take a moment to analyze the ADEA's effect on the workforce, says Chloe Roberts of Roberts & Associates Law Firm.

### [The Trump Administration And Nuclear Energy](#)

Nuclear energy has fallen on hard times in the United States. Operating costs are high, while natural gas is abundant and cheap. So what will the Trump administration mean for nuclear generation? The president-elect seems uninterested in carbon-free nuclear power as a means to fight climate change, but job creation could justify the construction of new nuclear plants, say David Repka and Tyson Smith of Winston & Strawn LLP.

### [Death Knell For The Telephone Consumer Protection Act](#)

The Telephone Consumer Protection Act is generally considered a popular, pro-consumer statute, but the law may be dramatically altered following power shifts in Congress and the Federal Communications Commission. It is increasingly likely that the TCPA will transform to address existing criticism and to reflect changes in technology since the law's passage in 1991, say attorneys from Sutherland Asbill & Brennan LLP.

### [FDA Adverse Event Data Release May Mean More Lawsuits](#)

The U.S. Food and Drug Administration recently announced the public release of data on adverse events related to cosmetics and foods. The data include reported negative reactions or complaints related to products, and do not indicate a determination of fault by the FDA. But the release could still lead to an increase in litigation, say Joanne Hawana and Daniel Herling of Mintz Levin Cohn Ferris Glovsky and Popeo PC.

### [Trump Libel Win Based On Trump Libel Loss](#)

President-elect Donald Trump just won a libel case against a critic — for the very same reason that real estate developer Donald Trump lost a libel case against a critic more than 30 years ago. But the new case, and the

atmosphere of the 2016 presidential campaign, may significantly alter libel law, says Mark Sableman of Thompson Coburn LLP.

## LEGAL INDUSTRY

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### Flat Law Firm Growth Is Attorneys' Fault, CMOs Say

Law firm chief marketing officers point the finger at attorneys for impeding growth, according to a survey — but that blame may be misplaced.

### Legal Tech Download: New Startup Lab And Robot Ethics

The world of legal technology is quickly evolving as new products aimed at aiding lawyers are created and launched in rapid succession. Here, Law360 takes a look at seven of the biggest legal tech-related news developments in the new year.

### KWM Reboots European Business After Administration Filing

Just one day after the European and Middle Eastern arm of King & Wood Mallesons entered into administration in the U.K., the firm's global chairman on Wednesday announced plans to maintain a business presence in the region in order to continue serving its global client base.

## JOBS

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Ossining, New York

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