

How a New U.S. Administration's Policy Playbook May Impact Businesses

Sam Gandhi, Michael Borden, Pattie DeLoatche, and Andy Shoyer
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Sam Gandhi:

With the inauguration of President Trump, a Republican trifecta now rule the House, the Senate, and the White House. That balance of power comes with its caveats. The comfortable GOP majority in the Senate may secure most of Trump's cabinet picks. The very tight margins in the House may mean having these Executive Orders conflicting with some policies and priorities.

Across the aisle, Democrats are regrouping and pinning their hopes on clawing back the House in the 2026 midterms.

Michael Borden:

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Sam Gandhi:

That's Michael Borden who leads Sidley's Government Strategies practice.

Pattie DeLoatche:

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Sam Gandhi:

That's Pattie DeLoatche, a senior policy advisor and also a member of the firm's Government Strategies practice.

Andy Shoyer:

With China, the dominant view within the administration is really decoupled. This is a continuation of Trump 1.0 to try to really separate the U.S. and Chinese economies.

Sam Gandhi:

And that's Andy Shoyer, a partner in the firm's Global Arbitration, Trade, and Advocacy practice.

What's in store for America's relationship with other countries like China, Canada, Mexico, Russia, and the Ukraine? Will proposed tariffs tank or bolster business, trade, and the economy, and how might the nation's healthcare legislation shift under Republican budget?

In today's podcast we explore the political and business landscape in Washington.

From the international law firm, Sidley Austin, this is *The Sidley Podcast* where we tackle cutting-edge issues in the law and put them in perspective for business people today. I'm Sam Gandhi.

Hello, and welcome to this our fifth anniversary edition *The Sidley Podcast*. It's hard to believe that five years has passed since our first podcast in January of 2020. Michael, Andy, Pattie, great to welcome you to Season six and Episode 45 in the podcast.

Andy Shoyer:

Thanks, Sam.

Michael Borden:

Thanks, Sam.

Pattie DeLoatche:

Thank you, Sam.

Sam Gandhi:

We're recording this broadcast two days after President Donald Trump's second inauguration. Major policy discussions and cabinet hearings are well underway. The Republicans control all levels of power and they're proposing to pass major tax reform, increase domestic energy production, strengthen the border, and cut government spending.

Michael, I'm going to start with you and just given the realities on the ground, how likely is it that the GOP and President Trump will achieve all of this, and how is Congress really going to function?

Michael Borden:

There is a lot of optimism at the beginning of any administration that a President's agenda is going to be enacted in full and it'll be enacted quickly. I think it's really important to be a little bit more realistic. We are dealing with a profoundly narrowly-divided Congress. In the House, Republicans won 220 seats, but that number is about to drop to 217 because Representative Mike Waltz and Elise Stefanik are going to be taking senior positions in the Trump Administration, and Matt Gaetz resigned in advance of taking his seat.

And so, that means that for the next few months until there's a special election, we're going to have the narrowest possible majority in the House, and while there are 53 Republicans in the Senate, that's not a filibuster-proof majority.

And so, despite grand proclamations that things will be done without compromise and quickly, I think the reality on the ground is going to be very different. Congress is notoriously messy, it's notoriously slow, and just one member can upend any of this.

And so, I think that for people as they're planning and they're contingency planning, and looking at the headlines, they need to do this with, and they need to look at it with a grain of salt. They have to be realistic that despite public proclamations, the Republicans are going to struggle to pass their entire agenda, which is incredibly ambitious, issues like energy policy, diversity, equity, and inclusion, immigration, tax policy, raising the debt limit, Federal assistance for the victims of the California wildfires.

These are just some of the earliest issues that Congress wants to and needs to address, and it's going to be very complicated to do.

Sam Gandhi:

Pattie, your thoughts. Michael doesn't seem very sanguine about how smoothly this thing is going to run, but how do you think that the House is

going to function and do you think there's going to be again, more chaos given some of the extreme members of the Republican majority?

Pattie DeLoatch:

I have a different take than Michael on this. I actually believe that the House will function more efficiently than many expect, especially with President Trump being in the White House and a Republican Senate. I think it's a different Congress than last year.

And you know, I just want to, just for example, this election for House Speaker that took place a couple weeks ago, many really didn't think that Mike Johnson would be reelected as Speaker, and he was reelected first round. And there were some renegade Republicans who were not voting for him, and all it took was a call from then President-elect Trump and immediately they changed their votes and the House Speaker was elected.

And I just think that the President is going to have a lot of power over the renegade Republicans, and that he'll be able to put them in line and get his agenda through. Is it going to be easy? No, but that in the end I think that they are going to be more successful than many expect.

Sam Gandhi:

Let me follow up on one thing. How many Democrats, just given where the elections went, do you think will be cooperative in terms of the new House and some of the Republican proposals?

Michael Borden:

It's a small minority of the Democrats who are going to be looking to cooperate and find common ground. They're generally members of the problem-solvers contest, but there's going to be incredible pressure by the Democratic leadership for all members to stay in line, strengthen the Democrats' hands in any negotiations. The Democrats are immediately looking to the mid-term election, hoping to take back the House and hopefully the Senate as well so they can have a say in policymaking again.

But something I think to keep in mind, too, is that with these really, really slim majorities in the House, anything can change on a dime. Last year, or in the last Congress, there were I believe four members of Congress that passed away during their term. If that were to happen and all four were

Republicans this year, you'd have a Democratic-controlled House of Representatives.

So, I think that the Republicans are going to need the Democrats to pass certain things like, raising the debt limit, and almost certainly providing assistance after the California wildfires, and that means the Democrats are going to be able to extract certain concessions. At the moment we just don't know what they want.

Pattie DeLoatch:

Sam, I'll just add that in answer to your direct question about which Democrats could vote with Republicans, I think that it's important to look at the results of the November elections, and I think the Democrats that represent states that weren't for Trump and Congressional districts that weren't for Trump are probably more likely than not to not vote with Republicans but maybe work with Republicans more.

So, I think that is what we need to look at is the Congressional districts that voted for Trump but then voted for their Democrat Representative.

Michael Borden:

Sam, before we continue on that point, I'll take the other side of that, too, is where we mentioned the more extreme or more conservative members of the Republican Conference being able to slow down a process or slow down legislation. But in a Congress this narrowly-divided, anybody has that power, and I think that on issues like tax reform, it's going to be really important to look at Republicans who represent the big cities in some of the higher tax states around the country.

It has been a absolute litmus-test issue for a number of these Republicans to restore the state and local tax deductions that were eliminated during the previous Trump tax reform. Those were extremely costly and they generally benefit people who are living in cities or higher-cost areas in the country, and that's going to be a complication on tax reform, and whether and how it's going to get done.

So, while ultimately votes and Republicans might all come together, this I don't think is going to be a purely top-down operation where Trump dictates the policies that Congress is going to enact. I think there is going to need to

be a lot of compromise, and not only do you have to pay attention to the most conservative members of the conference, you're also going to have to pay attention to the more moderate members of the conference and the mainstream members.

So, it's going to be...everyone has a really strong negotiating hand in this new, in 2025.

Sam Gandhi:

Let's talk about foreign policy and Trump's shift back to an America's First policy. In a recent interview with the *Financial Times*, Senator Mitch McConnell spoke out against isolationism within the GOP and President Trump's America First policies, and he said, "We're in a very, very dangerous world right now, reminiscent of before World War II. Even the slogan is the same, America First. That was what they said in the '30s."

So, Pattie, Senator McConnell now chairs the Senate Appropriations Subcommittee on Defense. How will he and the other senators effectuate President Trump's agenda, maybe push back on it?

Pattie DeLoatch:

It depends on the issue. I think, for example, with healthcare, with Robert F Kennedy (RFK) Jr.'s nomination to be the Department of Health and Human Services (HHS) Secretary, Senator McConnell is very interesting because he is somebody who had childhood polio and so, RFK Jr.'s position on vaccines is very troubling to him. And I think that Senator McConnell is somebody who will be watched very carefully when it comes to RFK Jr.'s confirmation vote.

And I still think he has a lot of power. He is somebody who has a very close relationship with Majority Leader Thune, and so, I do think that he will have some influence still.

Sam Gandhi:

And Michael, I wouldn't normally refer to Senator McConnell as a wild card, but do you think there's a potential of that?

Michael Borden:

That's the big question in Washington. Now that McConnell's freed from his leadership responsibilities and serving as the longest, he's the longest serving Republican leader in Senate history. And he clearly has no love lost for President Trump and is more likely than not serving in his last term as a Senator, a lot of people think that this might be Mitch McConnell unleashed.

And not only does he have strong relationships with the leaders, he's developed very deep and strong relationships with his other Senate colleagues over the last three decades.

And so, yeah, I think he is a potential wild card. The question will be whether party loyalty for him ends up being the dominant factor, or if some of his own personal views ultimately lead him to take contrary positions.

Sam Gandhi:

Andy, based on what we know from President Trump's first term, what can we expect his approach will be in foreign relations, and how do you think his administration will approach other countries? Will we strengthen those relationships, will this be an antagonistic relationship, or will it be more collaboration?

Andy Shoyer:

Sam, I think you're going to see two different trends. One is that I believe that President Trump is really playing for a Nobel Prize. He's been told about Teddy Roosevelt winning the Prize for mediating the Russo-Japanese War. He is clearly going to try to position himself to mediate between Russia and Ukraine. I think he believes that that is a significant opportunity for him. And so, he's going to use his ability to ratchet down sanctions to try to get Mr. Putin to the negotiating table, and if things don't go well the threat of ratcheting them up significantly.

The other place where I think he sees himself as a peacemaker is in the Middle East. Continuing the trend that we have seen with the Abraham Accords during Trump 1.0, there is now a meaningful opportunity to try to complete the deal that had been discussed between Saudi Arabia and Israel as sort of the biggest Abraham Accord in order to capitalize on the changes in Syria and the significant weakening of Iran. So, I think those are really significant opportunities for the President.

On the other hand, I think we'll see an aggressive and confrontational approach with the European Union, with other trading partners, with respect to the economic side. So, I think it's going to play differently really between the peacemaker and the aggressive America First side of the economics.

Sam Gandhi:

If you're interested in information on the energy industry, tune to the next episode of Sidley's *Accelerating Energy* podcast hosted by our partner, Ken Irvin. Ken will be joined by Tom Vaccaro, Clean Energy Development Director at National Grid. They will discuss energy consumption and how utility companies are navigating the energy transition in a rapidly evolving grid.

You can subscribe to Sidley's *Accelerating Energy* podcast wherever you get your podcasts.

You're listening to *The Sidley Podcast*, and we're speaking with Michael Borden, leader of Sidley's Government Strategies practice, Pattie DeLoatche, a Senior Policy Advisor in that group, and Andy Shoyer, partner in the firm's Global Arbitration, Trade, and Advocacy practice, and we're talking with them about what the new Congress may be able to accomplish, who among Trump's cabinet picks might be confirmed, and how foreign policy under the new administration could affect business.

So, on the day of his inauguration, President Trump revoked nearly 80 Executive actions taken by the Biden Administration on issues as various as climate, energy, and diversity programs, and also signed about 50 of his own. So, Michael, what struck you about this flurry of presidential actions? Seems fairly unprecedented for the day of inauguration, and what else can we expect President Trump to do on his own without anyone's political buy-in?

Michael Borden:

So, there is a shock and awe that are associated with the issuing of Executive Orders, and Sam, as you mentioned, President Trump has focused so far on pardons, diversity, equity, and inclusion, private sector investment in artificial intelligence, health, the economy, trade, tax, energy,

the environment, the border, immigration, technology and censorship, national security and intelligence.

He took out the menu and is still going through and is ordering up almost everything. I don't know if this is as novel as some are portraying it as. This is common now for presidents to try to make a big splash quickly, to announce their policy priorities, and to begin to shape the public narrative.

An Executive Order is just a statement of mandatory requirements for the Executive Branch. They have the effective law, but they're issued in relation to a law passed by Congress or based on powers that are granted to the President in the Constitution, and they still have to be consistent with those authorities.

And so, in most circumstances presidents have this broad authority to take significant action on their own, and I think that President Trump has taken a number of steps that are meaningful both substantively and also politically in terms of furthering his political and strategic interests, and depending on the sectors, you'll find some are deregulatory in a way that pleases different industries, and some are more restrictive.

And so, I think that everyone right now is still digesting what each of these mean and what the long-term implications are going to be. With these Executive Orders, President Trump is seeking control over the policies, processes, and structure of the government, but there are real opportunities for market players to participate in this unique institutional and legal moment.

You can have significant influence and a say in these outcomes because an Executive Order is generally only top-level guidance to Federal agencies on how to fulfill their duties within the confines of the law.

Sam Gandhi:

Just given how close the Congress is and how tight Republican control is over at least the House, do you think Congress is going to encourage more use of these Executive Orders, or do you think there's going to be a point in which Congress pushes back?

Michael Borden:

Congress always, and frankly everyone in government likes to protect their own prerogatives and their powers, and they don't like to see those taken or delegated away. And so, even when members of Congress substantively agree with an Executive Order and a Presidential policy, you'll find griping and concern and hand-wringing about the use of that power. But at some point President Trump will reach the limits of those powers, what are courts or Congress will say you can't do this because again, all of these powers have to be based on existing laws.

And so, soon, and there will reach a point where it's soon, Congress is going to have to step in and determine what the policies are going to be, and President Trump isn't going to be able to just declare things on his own.

Sam Gandhi:

If we talk a little bit about certain areas like healthcare, Republicans reportedly plan to use funding cuts and regulatory changes to reduce Medicaid. That program serves currently about 79 million people, mostly low income and disabled Americans. Pattie, is that going to happen? What's on the horizon generally for that program as well as for the nation's healthcare under this administration?

Pattie DeLoatch:

So, the Republicans that argued back to you, Sam, it isn't funding cuts, they want to make Medicaid more efficient, and they're looking at work requirements for Medicaid beneficiaries is one way, eliminating fraud-wasting abuse is another, and also establishing a Medicaid per capita cap for each state. So, in other words, each state would have a set amount of money that it would have for its Medicaid budget. That's the discussion right now with the Medicaid program.

And then the other thing, too, is there's a lot of rumblings about oh, well, now we can repeal the Affordable Care Act. The Affordable Care Act has been law since 2010, almost 15 years, and I personally believe it will be virtually impossible to repeal that legislation, or even weaken it with a Republican-controlled Congress and White House.

First of all, it would be a bureaucratic nightmare, and it would wreak havoc on our nation's healthcare system, and also, people like their Affordable

Care Act benefits, especially being allowed to have their adult children stay on their health plan until age 26.

Sam Gandhi:

There are two notable things on healthcare. Number one, President Trump on inauguration day rescinded Biden's action of lowering prescription drug costs. Given the focus on the market on prescription drugs and Big Pharma, will the Congress just leave that, or will they try to enact that to try to reinstate that action?

Pattie DeLoatche:

The Republican Congress will not reenact lowering the Biden prescription drug cost, but the one thing that I think is really important for folks to remember, President Trump is not adverse to prescription drug cuts, either, and so, while he may have rescinded the Biden law that would reduce prescription drug costs, he may have something of his own that he will be advocating.

So, I think that this is still a real possibility that there may be another type of prescription drug cut in the future through the Trump Administration.

Sam Gandhi:

March 14, 2025 is when the next continuing resolution expires. Do we think that we're going to see a robust health package pass before then?

Pattie DeLoatche:

The latest is yes. The first continuing resolution that was basically gutted by President-elect Trump at the time and Elon Musk, contained a lot of extensions for existing health programs, which are kind of, they're not in existence right now. However, we believe 100 percent that something will move either in March or April to ensure that those programs are able to continue.

Sam Gandhi:

Andy, I want to come back to tariffs, and according to Reuters, U.S. imports from China finished the year strong after some companies stockpiled shipments of apparel, toys, furniture, and electronics. It was a preemptive move ahead of Trump's plan to impose new tariffs that could revive the trade war.

So, if you could break this down for us a bit, what is Trump actually proposing with tariffs, how is it going to affect business trade and consumers, and I also want you to comment on whether half the market thinks this is a threat, half the market thinks this is a revenue raise and is really going to be a fuel for further tax cuts. Where do you think this comes out?

Andy Shoyer:

Sam, I think the best way to under this is really kind of market by market. With China, the dominant view within the administration is really decoupling. This is a continuation of Trump 1.0 to try to really separate the U.S. and Chinese economies, as difficult as that might be. And so, it is not about a revenue raise. The tariffs would be set high enough so, that trade with China would really be disfavored.

So, it really would function as part of the overall policy of trying to separate the Chinese economy once and for all. That would be a long-term play, but the tariffs there would function very differently than, for example, they would with European Union. They are, President Trump believes strongly that we need to eradicate a persistent trade deficit in order to get Europe to buy more of our stuff, and he would be quite happy to set tariffs down the line at a level that would raise revenue, and that would help to offset the corporate tax reduction that he would like to pursue.

So, it really plays differently in different markets, and I think there's no one single answer with respect to how we have to understand how tariffs are going to be used.

Sam Gandhi:

The various businesses are really different as you said in terms of how it gets affected. How is it going to affect manufacturing, but how is it also going to affect financial services? Many banks that are based in the United States but are really global banks are really looking at doing more business in China. They had a large footprint, and frankly for the last few years they have not seen their footprint expanded, they retreated, and they want to change that. How do you think the Trump Administration is going to address those two industries?

Andy Shoyer:

It doesn't appear that the Trump Administration is going to try to strong-arm financial service firms to get them to move out of China. Those investments are I think for the long term. It seems unlikely that the administration is going to try to stop them from providing financial services within China to the Chinese market.

However, U.S. manufacturers have already started to move out, and that has largely been because of the downturn in the Chinese economy. One could argue that that is part and parcel of the imposition of tariffs starting with Trump 1.0.

So, I believe that the Trump Administration is quite happy to see U.S. manufacturers move out and probably they don't feel that they need to do a significant amount of policymaking in order to continue that trend. But I don't believe we're going to see financial regulators and others trying to get significant investment banks to leave China as those banks are largely serving the Chinese market.

Sam Gandhi:

As we wrap up the podcast, I want to talk to each of you about what you're hearing from clients, and what you're hearing from clients about their concerns or hopes from the new administration, and let me start, Michael, with you.

Michael Borden:

There's been so much uncertainty about what's going to happen and when, and as Andy was just talking about the question of tariffs, President Trump had said throughout the campaign that he was going to impose tariffs on day one, and that didn't happen. And so, now everyone is asking, when are they coming and what are they going to mean, and is this just a negotiation?

And in particular on issues related to China, as Andy mentioned, there seems to be a push toward decoupling where the National Security hawks are really driving the debate. But I think that what we're actually seeing in real life is that there's been pretty meaningful pushback over the last few months from members of Congress and now this new administration with economic concerns, and what decoupling would mean.

And so, at the end of the last Congress, for example, you didn't see what many people had expected to be enacted, which were outbound investment restrictions in Chinese companies, sanctions imposed on certain Chinese technology companies. And so, what we're actually seeing is a bit of a divergence from the rhetoric and people are trying to really understand what it means for their business.

Sam Gandhi:

And Pattie, what are clients telling you?

Pattie DeLoatche:

Some are deeply concerned due to what they perceive as a lack of respect for science. For example, RFK Jr.'s position on vaccines is very, very troubling. The perception of Dr. Fauci, who was somebody who was a medical research leader in HIV/AIDS and helped the country navigate the COVID virus, it was a very difficult time.

Others are deeply concerned about the tariffs that could be coming, particularly U.S. companies that have manufacturing plants in Mexico. And then others are relieved. They envision the Trump Administration a very closed business, which translates into less regulation, and they're trying to figure out the role of Department of Government Efficiency (DOGE) and how DOGE will lead to more government efficiency.

Sam Gandhi:

And Andy, what are your clients talking to you about their concerns about trade under this new administration?

Andy Shoyer:

Our clients really across the board are scared about tariffs. That's on the manufacturing side and for example, they don't have a commercially meaningful plan to replace Chinese electronics and other components with U.S. sources, and that is going to be a major issue I think for the next six to 12 months is really scrambling to find replacements in the U.S. market.

We also hear that from our agri-business clients. They got hammered from retaliation last time in China losing markets. The retaliation this time is

going to come much more quickly, and so I think that is the other concern that we hear.

Sam Gandhi:

We've been speaking with Sidley thought leaders Michael Borden, Pattie DeLoatche, and Andy Shoyer about President Trump's potential tariffs, executive actions, and healthcare policies and how those plans may affect the business community. Michael, Andy, and Pattie, it's been a great look at the political and business landscape that's rapidly changing in Washington. Thanks for sharing your insights on the podcast today.

Andy Shoyer:

Thanks, Sam.

Michael Borden:

Thanks, Sam.

Pattie DeLoatche:

Thank you, Sam.

Sam Gandhi:

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