3. 2017 Legislative Agenda - Impact on Swiss Business

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During his campaign, candidate Trump showcased the qualities of a successful salesman that made him a fortune in real estate and the owner of a global brand with interests ranging from golf courses to entertainment. He promised economic growth through tax reform while simultaneously calling for the closure of U.S borders to immigrants and trade, measures sure to choke the U.S. economy. He pledged to bring back coal to miners in Appalachia while promoting the deregulation of the natural gas industry, coal's main competitor in the U.S. energy market. Conservatives cheered his vow to repeal Obamacare and ease government regulation. At the same time, he told those left behind by the digital revolution and the globalization which followed in its wake that erecting barriers could "make America great again" for them.

Because he cleverly identified what had gone wrong for those whose voices nobody had heard, he carried enough votes in a handful of swing states to get him elected to the presidency despite the obvious contradictions in his messages. Few had thought this possible, and many woke up on November 9, 2016 to the sobering realization that they would have to live with a Trump presidency for the next four years, and so, it seems, did the newly elected president himself.

Priorities and Reality

In the early days of Donald Trump's presidency, the difficulties of transforming a colorful bouquet of campaign promises into concrete political action became clear. Early morning tweets, ill-conceived executive orders blocked by courts and a wholesale reversal of campaign positions were an indication that the President's conflicting priorities faced a reality check. Hyperbole played well to work up crowds during the campaign, but with the weight of the office on the newly elected President's shoulders, his agenda began to look more and more like a typical Republican platform.

The legislative priorities that emerged were healthcare and tax reform. Trade, immigration, infrastructure, energy and financial market regulation were either pushed back or left to executive action. In the first 100 days of his presidency, Trump signed 90 executive actions. While some of the President's actions reversed previously adopted regulations and, in a few cases, decades of precedents, many were inconsequential displays of intent designed to appease the many constituents who voted for him for one reason or another, but not because they embraced his world view in toto.

Still, the net effect of this cacophony of real and imaginary action is a fundamental change in the political priorities from the Obama years. If and how these priorities will eventually become law in a political landscape that remains largely unchanged is anyone's guess. Early indications point to a continuation of the partisan politics that stood in the way of lasting bi-partisan solutions over the past eight years. This does not bode well for implementing President Trump's agenda. His plight is not helped by the fact that he is a political neophyte with little popular support outside of his core electorate who does not appear to be more interested in forging coalitions on Capitol Hill than his predecessor. Anybody hoping for a change in Washington should therefore recalibrate his or her expectations.

Healthcare Regulation

Swiss companies that are not engaged in the medical technology or pharmaceutical industry may wonder why they should pay attention to the battle over universal healthcare that has raged since 2008. This legislative tug of war is relevant for all Swiss businesses with interests in the United States because it is a bellwether for a major tax reform. Because this complex topic was moved to the top of the legislative agenda, the fate of the Republican version of healthcare reform will determine the chances of future legislation during President Trump's term. The outlook is not good. Republicans seem intent to repeat the same partisan approach that cost Democrats their majority in Congress in 2010 and hampered President Obama's legislative initiatives until the end of his second term.

As for the substance of the proposed healthcare legislation, Swiss pharmaceutical and medical device manufacturers may enjoy some reprieve because of the proposed repeal of taxes on medical devices and certain prescription drugs. However, despite all the political bravado, no matter its final form, Trumpcare will not change the healthcare industry in the United States as fundamentally as Obamacare did. For the most part, the proposed legislation simply shifts the financial burden around without offering a real solution to the problems that have bedeviled the Affordable Care Act. The fundamental issues of the American healthcare system, the rapid rise of healthcare costs, and the challenge to meet the growing healthcare needs of an aging population remain unaddressed. Unfortunately, the Republican majority in the House had no plan for a workable comprehensive healthcare reform, let alone appetite for the bipartisan support this would have required.

Tax Reform

The federal income tax system is in dire need of reform. The unique worldwide taxation of corporate and individual income disincentivizes U.S. multinationals from repatriating more than $2.6 trillion in foreign profits. The U.S. corporate income tax rate is the highest among all OECD members. Decades of special interest lobbying have created a messy tax regime that has become impossible to navigate without professional help even for the simplest of businesses. Yet the very same special interest groups that helped create the current mess will fight tooth and nail against any attempt to chip away at the myriad of special rules and benefits for various industries. It will be interesting to see whether a president whose fortune was largely built in an industry that is a chief beneficiary of the special interest regimes favored by the current Internal Revenue Code will indeed be willing to give up these benefits for a fairer, more uniform tax system.

In any event, other than commitments to reduce marginal tax rates and a discussion about how to pay for the expected revenue shortfall, the contours of any tax reform remain vague. An exception is the proposal of a "border adjustment" in the House Republican's tax plan to offset the expected revenue shortfall from lower corporate tax rates. Under this plan, U.S. companies could no longer deduct the cost of imports from their revenue. However, their profits from exports and other foreign sales would not be taxed. In theory, the negative impact of higher import costs would - at least in part - be offset by an expected rise of the value of the U.S. dollar. While this destination-based tax regime could potentially be bad news for Swiss companies exporting to the United States, excessive worry may be premature. Because the concept is opposed by a powerful lobby of retailers and manufacturers relying on a global supply chain, it is uncertain whether it will ever become law. Even if it made its way into a final bill, exceptions and conditions will surely be added in the legislative process to mitigate its impact on certain foreign imports. Swiss exporters of high-value goods may well benefit from such modifications, but may need to adapt their U.S. business strategy. Therefore, they should monitor these developments closely.

In light of the significant challenges any tax reform faces, whatever survives the legislative mill in Washington will probably be limited to a more modest adjustment of marginal rates than is currently proposed, avoid or water down controversial new concepts, and include a tax holiday for the repatriation of foreign profits.

Immigration

It is unlikely that immigration will make it onto the legislative agenda in 2017. However, Swiss businesses should not underestimate the impact of procedural and policy adjustments by the Trump administration on their ability to bring foreign talent to the United States. In March, U.S. immigration authorities suspended accelerated processing of the H-1B visas for skilled workers. This led to a 50% drop in applications for these visas for the 2017/18 fiscal year. This is a stark reminder that minor changes to existing policies can be powerful tools to push through priorities without congressional approval. Swiss businesses need to be prepared for a general tightening of immigration procedures for foreign workers during the Trump administration.

Trade

Trade is another area where the President can avoid the legislative process to implement policy priorities. President Trump used this power when he pulled out of the Trans-Pacific Partnership (TPP) within days of his inauguration. However, trade may well be the economic policy area where President Trump reversed his campaign positions the most. Contrary to his threat to “terminate” NAFTA and declare China a currency manipulator, he now seeks only relatively minor changes to NAFTA and has softened his stance on China. After an early saber rattling with Germany over trade, President Trump has yet to publicly state his position on the Transatlantic Trade and Investment Partnership (TTIP). Contrary to TPP, the U.S. has not withdrawn from TTIP or announced that it may do so. This could signal a more differentiated approach to trade than candidate Trump would have made Europeans believe.

Regulation of Financial Markets

Despite the President’s occasional call for a repeal of Dodd-Frank and the introduction of a bill to that effect in the House of Representatives, there is little discernable appetite in Washington for major changes to the financial market regulation adopted in response to the crisis of 2007/2008. However, budgetary measures could limit the enforcement of certain provisions regulating financial institutions. Based on the rhetoric, these measures would affect U.S. commercial banks more than Swiss banks whose U.S. activities are limited to asset management and brokerage services for U.S. clients.

Infrastructure Spending and Unaddressed Issues

Although it played a prominent role during the campaign, infrastructure spending has taken a backseat on the President’s agenda. Despite assurances to the contrary, there is no clear strategy as to how an infrastructure spending bill could be passed in Congress. Given the current realities, infrastructure investments may be sacrificed to secure the acquiescence of the Freedom Caucus, the purist wing of the Republican Party, to a less than perfect tax reform. It is possible that the President may push his idea of providing tax incentives for investments in infrastructure projects as part of a tax reform, but that is too early to predict.

Reforming the United States’ social security and government benefits programs, which will only become more expensive over time, is as absent from President Trump’s agenda as addressing the shortcomings of the U.S. education system or the looming student loan crisis. More than 44 million Americans carry over $1.3 trillion in student debt with 11.2% of these loans in serious delinquency. For comparison, during the height of the financial crisis, the serious delinquency rate of home mortgages, the prime culprit for the crisis, stood at 8.4%.

The financial markets have given President Trump the benefit of the doubt that he will be able to implement a pro-growth agenda early in his term. In light of the challenges to implementing his agenda that have now become obvious, this optimism must be viewed with skepticism, and markets may adjust their expectations later this year. Be this as it may, Swiss companies will need to weigh the benefits they can expect from a growing U.S. economy against the impact of measures to protect U.S. manufacturers and workers. While most of these measures will target importers of low-value commodities, they may not leave Swiss exporters of high-end and specialty products unscathed.

The biggest impact of the President’s and Congressional Republicans’ legislative agenda on Swiss businesses should undoubtedly be expected from any tax reform. Should the taxation of U.S. corporations indeed change significantly, Swiss investors and companies may have to reconsider their U.S. investment structures and business models as decades-old paradigms could change. But then again, the first months of the Trump presidency have reminded us that campaign slogans are not enough to move things in Washington. The U.S. government’s complex power structure, arcane Congressional procedures, and a myriad of interests influencing legislation are not as easily pushed aside as some may have feared.

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