APCO ESG & Sustainability Post-Election Analysis

Overview

As the next Trump administration takes shape, businesses should be prepared for potential changes in the legislative and regulatory landscape concerning ESG and sustainability. The incoming administration has been consistently critical of ESG initiatives and climate regulations, emphasizing deregulation and withdrawal from international climate agreements and commitments. While there are immediate changes we can predict with some certainty and trends we expect to continue from the first Trump administration – e.g. a patchwork of state-by-state sustainability regulations and laws as opposed to an overarching national position on sustainability – President-elect Trump's focus on issues like immigration, trade and DEI means it is still unclear how high of a priority ESG, climate and sustainability will be for the administration and Congress.

Key timing considerations:

- **First few days:** In the first days of his presidency, Trump is expected to issue **Executive Orders** to reverse or modify existing executive climate policies established by President Biden. This could include instructing agencies to pursue actions that scale back environmental protections, prioritizing fossil fuel development, reversing the Biden administration's targets that encourage the adoption of electric vehicles, and abolishing standards for companies to become more sustainable. While the process of issuing an Executive Order is quick, the implementation of the directives by federal agencies can take time.
- **First few months:** Under the **Congressional Review Act**, Congress has authority to disapprove recently completed executive rules or regulations by a simple majority vote. This allows Trump and a Republican-controlled Congress to target any climate regulations that may be finalized under the Biden administration through the end of the year and nullify them relatively quickly.
- **First year:** With a Republican trifecta (controlling the White House, Senate and House), Congress could use the **annual appropriations** process to strike funding for climate and ESG initiatives and increase funding for fossil fuel projects. If the current lame duck Congress opts for another short-term extension of government funding into next year, Republicans will have increased leverage to drive changes in both FY25 and FY26 spending negotiations.

Expectations and Implications

1. There will be limited political support for ESG, but continued focus from businesses on sustainability-related risks, opportunities and responsible practices.

While there will be a vacuum of leadership on ESG and sustainability at the federal level, companies will still need to manage sustainability and reputational risks. There will also be opportunities for leadership from businesses and NGOs over the next four years.

What it means:

- Companies should take time to update their stakeholder maps to understand where key stakeholders sit on the "ESG" spectrum. Given global regulations and corporate commitments, a de-prioritization of ESG at the U.S. federal level does not necessarily translate to a de-emphasis amongst the global business community, NGOs, etc.
- Prioritize building a business-driven narrative for any ESG activities to stay out of the political fray. 'Show your work' on ESG without using the label, and ensure your commitments and aspirations are supported by actions.
- Bring innovation and associated positive business impacts to the forefront when discussing ESG-related initiatives. There is excitement and bipartisan support for things like AI and nuclear energy.

2. Demand for action on ESG issues remains strong.

While "ESG" as a framework for investment and corporate management may face criticism, the issues represented under this label remain critically important to business. AI and cloud technologies are driving massive energy demands that will require any and all approaches to securing energy, including alternative sources. Supply chain challenges will necessitate investment behind greater resiliency. Market, trade and technology dynamics will require continued investment in a diverse talent pool.

What it means:

- Companies that have previously leaned-in to ESG issues and sustainability should stay the course. Knee-jerk decisions or sunsetting efforts that were positioned as business critical just a few months ago could draw criticism, and companies should evaluate commitments through the business lens (i.e., diversifying fuel portfolio, creating energy efficiency to lower costs) and continue to communicate about them in that way.

3. Deregulation at the federal level will lead to a patchwork of state-by-state laws and regulations and regional activism.

Blue states already leading on climate regulation – California, Washington, New York – will continue to lead and are looking into ways to safeguard more progressive state laws, a rerun of Trump's first term. In addition, we expect a countermovement to state-level anti-ESG activism. For example, there have been challenges to state statutes in Oklahoma and Texas and other signals of re-energized "blue state" Attorneys General.

What it means:

- Businesses will need to continue to monitor legislation and regulation at the local, state and federal levels.
- Keep an eye out for hubs of innovation across the country in states pressing forward on climate mitigation and environmental technology, focused on bringing like-minded innovators together and furthering sustainability ambitions.

4. Federal climate disclosure rules will likely halt in the U.S., but pressure to measure, manage and disclose will remain.

The SEC climate disclosures rule, which has faced many delays and challenges, is not likely to move forward under a Trump administration. This will enhance the standing and importance of state-level and international regulation.

What it means:

- U.S. businesses operating globally will still need to align with global frameworks and California will continue to exert pressure beyond its borders.
- Disclosure frameworks, like the Corporate Sustainability Reporting Directive (CSRD) in the EU and voluntary standards such as the IFRS Sustainability Disclosure Standards, will continue to drive harmonization and standardization.

5. The U.S. may back out of global climate agreements, but this could lead to the development of new partnerships, coalitions and opportunities for leadership.

Trump has promised to pull the U.S. out of the Paris Agreement, which President Biden rejoined upon taking office in 2021. Already, the U.S.'s largest oil company Exxon has spoken out against this move and reaffirmed commitment to the agreement. Coalitions and partnerships offer a way to engage, drive progress and avoid standing alone in a contentious environment.

What it means:

- Private sector platforms for collaboration and partnership are likely to fill the void. This creates an opportunity for businesses and other leaders to carve out a larger share of voice on sustainability topics and focus on out-of-the-box ways to continue to further progress.
- Ensure the goals of coalitions and partnerships are clearly articulated. A strong narrative that explains the business "why" of engagement can stave off criticism.