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Manufacturing and Distribution Industry Perspectives

Your monthly blog and industry news round-up

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Some Considerations for Manufacturers as U.S. Lawmakers Work to Peel Back Regulations

It took the new Trump administration essentially no time to start issuing executive orders and presidential memoranda designed to ease regulations on U.S. businesses. Certain changes the administration is advocating would be welcome news for manufacturing and distribution companies, such as:

- A **presidential memorandum** that is intended to streamline federal permitting processes for, and to reduce regulatory burdens that affect, domestic manufacturers.
- An **executive order** that orders a review of the Dodd-Frank Wall Street Reform and Consumer Protection Act (DFA). Scaling back these financial regulations, which were instituted in 2010 following the financial crisis, would reduce reporting requirements for many businesses.

Potential Suspension of DFA Section 1502

One DFA-related change that the Trump administration is **reportedly considering** could benefit many manufacturing and distribution companies: suspension of **Section 1502**. The so-called Conflict Minerals Rule requires certain public companies to disclose whether they use specific conflict minerals that originated from the Democratic Republic of the Congo or nine adjoining "Covered Countries." Conflict minerals, such as tin, tantalum, tungsten and gold, are used to manufacture products across a wide range of industries, including technology and consumer products. Section 1502 required companies to assess whether any manufactured products contained such minerals and determine whether these materials originated in the Covered Countries by conducting supply chain due diligence and reporting annually.

Overtime Exemption Rule on Ice

The future is also uncertain for the controversial **Fair Labor Standards Act overtime rule**, which was introduced during the Obama administration and was supposed to go into effect on December 1, 2016. The rule increased the threshold for overtime pay whereby salaried workers who earn less than US$47,476 annually would be eligible for overtime pay when they work more than 40 hours a week. Companies must either compensate these workers with overtime pay or raise their salaries so they are above the threshold.

The National Association of Manufacturing's Center for Manufacturing Research has estimated that overtime costs for manufacturers will reach **$24 billion within the next 10 years** under the Obama overtime regulations. However, the final overtime exemption rule under the Fair Labor Standards Act was blocked by a federal court in Texas one week before its effective date. In January, the Trump administration essentially put the rule on ice following a **regulations freeze**.

Regulatory Risk: It's Still Out There

Manufacturing and distribution executives must consider the potential risks that accompany regulatory changes that are already in the works or that may be on the horizon. Industry executives who took part in the latest **Executive Perspectives on Top Risks Survey** from Protiviti and North Carolina State University's ERM Initiative cited the following as a top risk for their companies in 2017: *Regulatory changes and regulatory scrutiny may heighten, noticeably affecting the manner in which our products or services will be produced or delivered.*

Change takes time, and many of the regulatory changes proposed in recent weeks could take years to fully play out. As *The Wall Street Journal* noted in a **recent article** about Trump's executive order stipulating that government agencies eliminate two regulations for each new regulation they introduce: "[Any] effort to scrap a regulation triggers its own process, complete with draft rules, comment periods, and regulation rewriting. That process [also] can be subject to litigation."

While certain changes would be welcome by manufacturing companies, the changing global trade landscape must be monitored vigilantly, as well. The Trump administration's approach to trade and negative view toward multinational trade agreements are likely to create previously unanticipated challenges, costs and risks for manufacturing and distribution companies inside and outside of the U.S. For some of these businesses in the U.S., any potential regulatory relief may be offset, at least in the short term, by revisions to free trade agreements that could impact the ability to conduct business with trusted partners in other countries.

Still, for now, manufacturing and distribution companies have a lot to be optimistic about. Even before Trump took office and started taking steps to ease regulations, there were signs that the U.S. manufacturing industry was beginning to grow again. The **Institute for Supply Management Index** hit 56 percent in January, rising 1.5 percentage points from December and exceeding many economists' expectations. This is the fastest pace of growth **in more than two years**.

"Stay Nimble": The Mantra for Manufacturing and Distribution Companies in 2017

For manufacturing and distribution (M&D) companies, which are already well-conditioned to operating in an uncertain global environment, 2017 promises to continue to keep them on their toes. At the very least, it is likely to present a mixed bag of new challenges and opportunities, and executives will need to ensure that their organizations are nimble enough to pivot quickly when faced with disruptive change.

Among the challenges that M&D companies may face this year are the potential negative impacts on trade stemming from the **"hard Brexit"** course that British Prime Minister Theresa May has set for the United Kingdom. Meanwhile, the new Trump administration's approach to trade is already proving to be a source of consternation for longtime trade partners like China, Canada and Mexico. President Trump has already pulled the United States out of the Trans-Pacific Partnership (TPP) negotiations and is expected to sign an executive order to renegotiate the North American Free Trade Agreement (NAFTA). With the volume of cross-border imports and exports, the impact on M&D companies could be significant.

On the other hand, possible opportunities for M&D companies include easing and/or elimination of certain environmental regulations in the United States. President Trump **told auto industry leaders** at a recent roundtable that in the U.S. "environmental regulations are out of control." Less than a week later, he **signed an executive order** to reduce regulation and control regulatory costs. The order requires that agencies eliminate two regulations for every one they propose. The Environmental Protection Agency is, of course, one of those agencies.

Also among the flurry of executive orders newly inked by Trump is the **"Presidential Memorandum Streamlining Permitting and Reducing Regulatory Burdens for Domestic Manufacturing,"** which "directs executive departments and agencies ... to support the expansion of manufacturing in the United States through expedited reviews of and approvals for proposals to construct or expand manufacturing facilities and through reductions in regulatory burdens affecting domestic manufacturing." This order is welcome news to manufacturers, especially those that **already believed** economic conditions under the Trump administration would be favorable to support their new facility or facility expansion plans. Furthermore, this order does not cover the corporate tax reform that is expected in 2017.

In short, there has been no shortage of dramatic change already in the new year. Interestingly, executives at M&D companies sensed months ago that 2017 would likely be another year of economic uncertainty for their industry – though they may not have known the exact kind or level of uncertainty it would bring.

When Protiviti and North Carolina State University's ERM Initiative embarked on their research for the latest ***Executive Perspectives on Top Risks Survey***, the Brexit vote had not yet taken place, and the major parties in the U.S. presidential election had not yet nominated their candidates. Nevertheless, executives cited the following as the number one and number two top risks for their industry:

1. *Economic conditions in markets we currently serve may significantly restrict growth opportunities for our organization*, and
2. *Anticipated volatility in global financial markets and currencies may create significantly challenging issues for our organization to address.*

Both of these macroeconomic risks held the same top positions in the previous year's survey. This, in my opinion, reflects the ongoing challenges that M&D companies face in a global economy. These challenges are driven not only by political uncertainty and trade agreement considerations, but also by supply chain and sourcing vulnerabilities and currency devaluations.

All this underscores why "Stay Nimble" should continue to be the mantra for M&D companies this year. The rapid-fire changes we have seen so far should not lead to paralysis and/or stagnation. The old adage, "When one door closes, another one opens" has never been more true. The events that have unfolded in the first few weeks of 2017 suggest that businesses in this industry group should be prepared to adapt and innovate swiftly to take advantage of the doors that open.

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