DEAL LAWYER SEC CHAIR COULD MEAN CHANGES FOR EXECUTIVE COMPENSATION

By Brent Longnecker, Alissa Martin & Liz Mayo

Many of President Trump's appointments have been polarizing, and the nomination for SEC Chair has been no exception. Walter "Jay" Clayton, Partner at Sullivan & Cromwell, has replaced current chair Mary Jo White when she stepped down on January 20th. Clayton, a well-known deal lawyer in mergers, acquisitions, and IPOs is currently an unknown in the political arena.

While he may be unknown politically, Clayton has an abundance of experience in Corporate America and will be able to draw from his personal experience in helping companies navigate regulations to decide if certain federal regulations, current or proposed, are necessary and effective. His resume lists mergers, acquisitions, private equity transactions, and initial public offerings with billions of dollars attached as well as his influence in corporate governance and regulatory matters. While this experience in corporate boardrooms is viewed as a great advantage by some-- such as Vice Chairman in Mergers and Acquisitions at Morgan Stanley, Brad Whitman, who says that Mr. Clayton has "a great appreciation for what drives business and growth"-- it is troubling for others who take his deep ties to Wall Street as a conflict of interest. Senator Sherrod Brown (D-OH) stated that "it's hard to see how an attorney who spent his entire career helping Wall Street beat the rap will keep President Trump's promise to stop big banks and hedge funds from 'getting away with murder'".

His vast experience in Corporate America could have one unintended drawback—he may have to recuse himself from any SEC matter in which he has a potential conflict of interest due to his former clients. He won't be the first SEC Chair to have to recuse him/herself due to potential conflicts of interest with former clients, but he may certainly have the largest amount of potential conflicts.

Regardless of the polarization over his qualifications and experience, it is clear that the shift from current Chair White, a prosecutor and a strong proponent of regulation, to Mr. Clayton, a deal lawyer, signals the coming changes in how the government will approach Wall Street. Trump said that "we need to undo many regulations which have stifled investment in American businesses, and restore oversight of the financial industry in a way that does not harm American workers".

Clayton adds that "we will carefully monitor our financial sector, as we set policy that encourages American companies to do what they do best: create jobs".

So, what does this mean for executive compensation? With the combination of Clayton's experience in board rooms, his deal-making background, and Trump's stance on deregulation, companies may see a softer stance on disclosure and regulations, potentially including a new look at Dodd-Frank Reform, pay ratio disclosure repeal, proxy advisory firm reform, reform efforts and possibly even more. Stay tuned.

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