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MEMORANDUM

January 21, 2025

BY ELECTRONIC MAIL

FROM: Olsson Frank Weeda Terman Matz PC

RE: USDA and FDA-Related Initial Executive Orders

On January 20, 2025, newly sworn-in President Trump issued numerous Executive Orders (EOs) and Presidential Memoranda (PMs) on a range of topics and issues, including federal agency regulatory practices and policies, and trade.[1] Below, we summarize briefly some of the EOs and PMs we believe are of interest to clients with business before federal agencies. These are as follows:

1. Regulatory Freeze Pending Review.
2. Delivering Emergency Price Relief for American Families and Defeating the Cost-of-Living Crisis.
3. Establishing and Implementing the President's "Department of Government Efficiency."
4. Federal Workforce EOs.
5. Withdrawal from the World Health Organization.
6. Initial Rescissions of Harmful Executive Orders and Actions.
7. Application of Protecting Americans from Foreign Adversary Controlled Applications Act to TikTok.

All EOs and PMs are available here.

[1] Since there were a large number of Eos and PMs related to trade, we address trade and tariff announcements in a separate memo. ***If not received, please let us know if you are interested in receiving that memorandum.***

Regulatory Freeze Pending Review. This "Regulatory Freeze EO" implemented a "freeze" on all federal agency regulatory activity; this action was expected and is typical in Presidential transitions. The EO extends to all federal agency rules, whether final or proposed, agency guidances, and statements of general applicability and future effects.

Under the Regulatory Freeze EO, no federal agency may propose or issue a rule until a department or agency head appointed or designated by President Trump (or their delegate) reviews and approves the rule. The Director or Acting Director of the Office of Management and Budget (OMB Director) may ***exempt*** any rule from these requirements in order to address emergencies and urgent circumstances, such as if a rule is subject to a statutory or judicial deadline.

Any rules that have been sent to, but not yet published, in the *Federal Register*, are withdrawn so that they may be subject to review. Further, federal agencies may consider postponing for 60-days the effective date for any rules that have been published in the *Federal Register*, or any rules that have been issued but not yet taken effect. During this 60-day period, a federal agency may consider opening a comment period, and where necessary, may continue to review the rule beyond the 60-day period.

If a rule raises no substantial questions of fact, law, or policy, it may proceed to publication after this 60-day period. If a rule raises substantial questions of fact, law, or policy, the agency should notify and consult with the OMB Director.

We note that as of today, federal agency semi-annual regulatory agendas have been pre-published in the *Federal Register*. (U.S. Health and Human Services' (HHS) Food and Drug Administration (FDA) agenda here and U.S. Department of Agriculture (USDA) agenda here). These agendas will not officially publish in the *Federal Register* until February 12, 2025. We expect substantial revision to federal agency regulatory plans in the next 60-days and these agenda will likely be revised before publication.

Delivering Emergency Price Relief for American Families and Defeating the Cost-of-Living Crisis. The focus of the EO is upon reducing regulatory burdens that purportedly increase costs for Americans, such as regulatory requirements for and affecting housing and appliances, climate policies, and electric vehicles.

While there are no immediate effects of the Executive Order, the President orders the heads of all executive departments and agencies to deliver "emergency price relief." The Assistant to the President for Economic Policy is required to report to the President on these efforts within 30 days.

Establishing and Implementing the President's "Department of Government Efficiency". The "Department of Government Efficiency" or "DOGE" has been an effort created after the 2024 presidential election to promote efficiency in the federal government and achieve reductions in federal spending and personnel. The EO officially establishes DOGE to implement "the President's DOGE Agenda, by modernizing Federal technology and software to maximize governmental efficiency and productivity."

The EO renames the United States Digital Service as the United States DOGE Service (USDS) and establishes it within the Office of the President. The EO further establishes a temporary organization for 18-months with an Administrator who shall report to the White House Chief of Staff. The U.S. DOGE Service Temporary Organization shall terminate on July 4, 2026. Agency heads have 30-days to assemble a team of at least four (4) employees to serve on "DOGE teams" that will report to USDS. These teams will likely include a team lead, an engineer, a human resources specialist, and an attorney.

We note that the existence of DOGE and its alleged failure to comply with federal law, including the Federal Advisory Committee Act, was immediately challenged in court.

Federal Workforce EOs. Numerous EOs target federal employees. Collectively, these EOs may significantly alter the staffing levels and expertise within federal agencies.

- **Restoring Accountability to Policy-Influencing Positions Within the Federal Workforce**. This EO reinstates in significant part EO 13957 from the first Trump Administration which required that federal agencies identify positions within each federal agency and department that would be exempt from civil service protections because of the policy-oriented nature of their positions. These positions would be placed in what was to be called "Schedule F." The purpose of the Schedule F classification was to make it easier for agencies to hire and fire these employees. The first Trump Administration ended before the EO could be implemented in significant part and the Biden Administration repealed it in 2021.

  This EO repeals the Biden Administration's EO and effectively reinstates the first Trump Administration's EO 13957.

  The second Trump Administration now is requiring that federal agencies classify policy-oriented positions as "Schedule Policy/Career," effectively the same positions as would have been "Schedule F." Estimates vary, but federal agencies in the second Trump Administration could classify tens or hundreds of thousands of positions as Schedule Policy/Career; removing these positions from federal civil service protections will make it easier to hire and fire these employees. Under the EO, grounds for dismissal from a Schedule Policy/Career position include the failure to faithfully implement the Administration's policies.

- **Return to In-Person Work.** This PM orders all department and agency heads to take "all necessary steps to terminate remote work arrangements and require employees to return to work in-person at their respective duty stations on a full-time basis." Department and agency heads may make ***exemptions*** they deem necessary.

- **Restoring Accountability for Career Senior Executives**. The Director of the Office of Personnel Management (OPM Director) and the OMB Director shall, within 30-days, issue Performance Plans for career Senior Executives that agencies must adopt.

- **Hiring Freeze**. This PM freezes all federal civilian hires and applies to all executive departments and agencies regardless of their sources of operational and programmatic funding; thus, agency activities and hiring funded by user fees would also be impacted. The EO does not apply to the armed forces and positions related to immigration enforcement, national security, public safety, and provision of Social Security, Medicare, or Veterans' benefits.

  Within 90 days, the OMB Director, OPM Director, and DOGE USDS Administrator shall submit a plan to reduce the size of the Federal Government's workforce "through efficiency improvements and attrition." Upon issuance of the OMB plan, this PM will expire for all executive departments and agencies except the Internal Revenue Service (IRS); the IRS freeze will be lifted when "in the national interest."

- **Reforming the Federal Hiring Process and Restoring Merit to Government Service**. Within 120-days, the Assistant to the President for Domestic Policy, the OPM Director, the OMB Director, and the DOGE USDS Administrator shall develop a Federal Hiring Plan for agencies and departments to execute.

Withdrawal from the World Health Organization. This EO implements a notification in July 2020 by the previous Trump Administration to withdraw from the World Health Organization (WHO). This EO orders a pause in the future transfer of any U.S. funds, support, or resources to the WHO and orders the recall and reassignment of any U.S. personnel and contractors. The Secretary of State and OMB Director are ordered to identify other international partners to assume the activities previously undertaken by the WHO.

Initial Rescissions of Harmful Executive Orders and Actions. This EO rescinds dozens of executive actions of the Biden Administration. Many are related to COVID-19 and diversity, equity and inclusion policies, racial and socioeconomic inequity, and transexual health. An EO on artificial intelligence (AI) was also revoked.

Several rescissions targeted the Affordable Care Act (ACA), including a rule directing the Centers for Medicare & Medicaid Services(CMS) to test payment models to reduce drug costs.

Application of Protecting Americans from Foreign Adversary Controlled Applications Act to TikTok. This EO delays the enforcement of a ban on the TikTok application and website for 75-days. The EO directs the Attorney General not to levy fines against app stores and service providers that continue to support TikTok.

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We hope this proves useful. We will continue to provide updates as they become available and the Trump Administration's regulatory policies and agenda take shape. Please contact us if you have any questions.