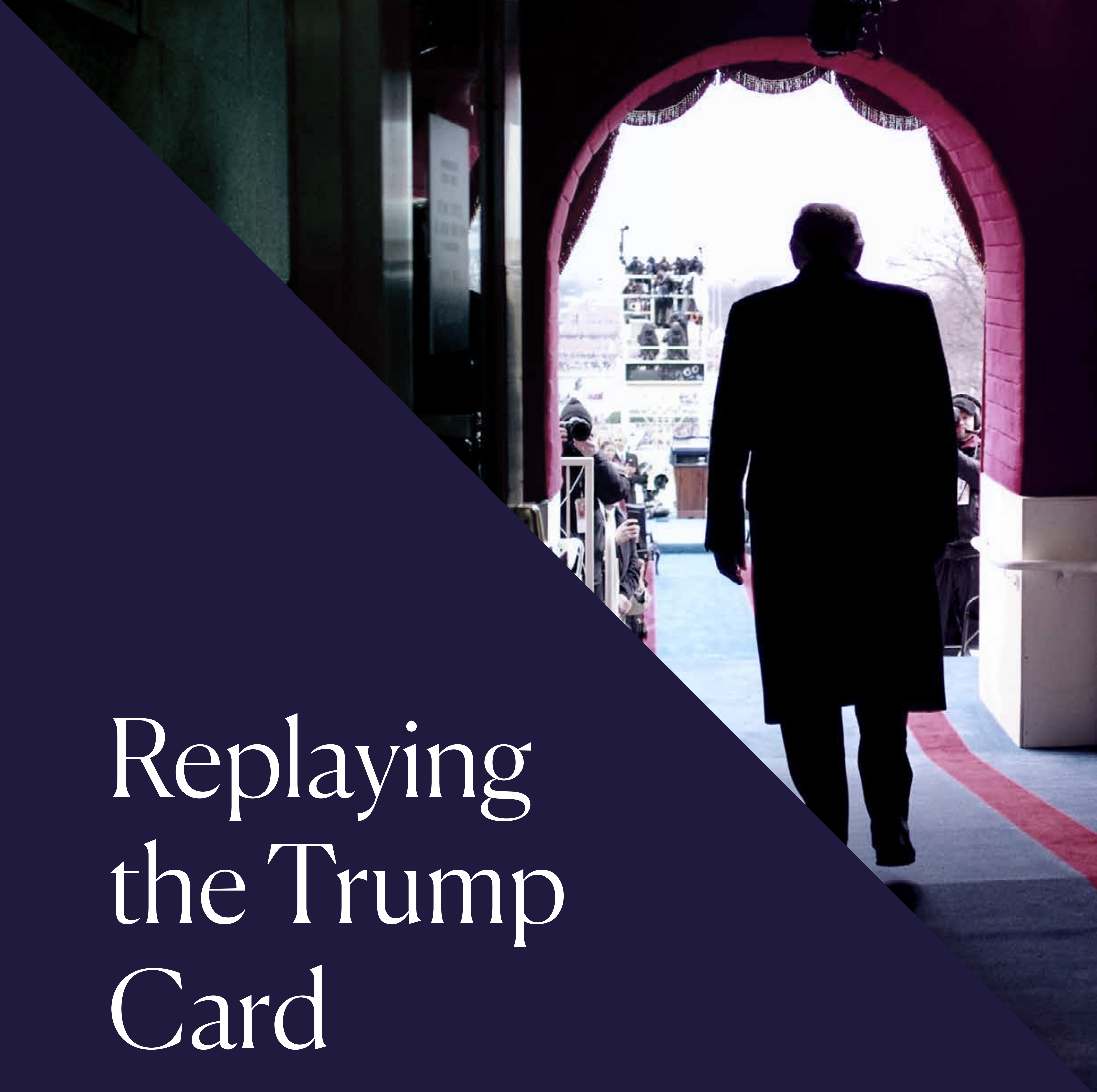
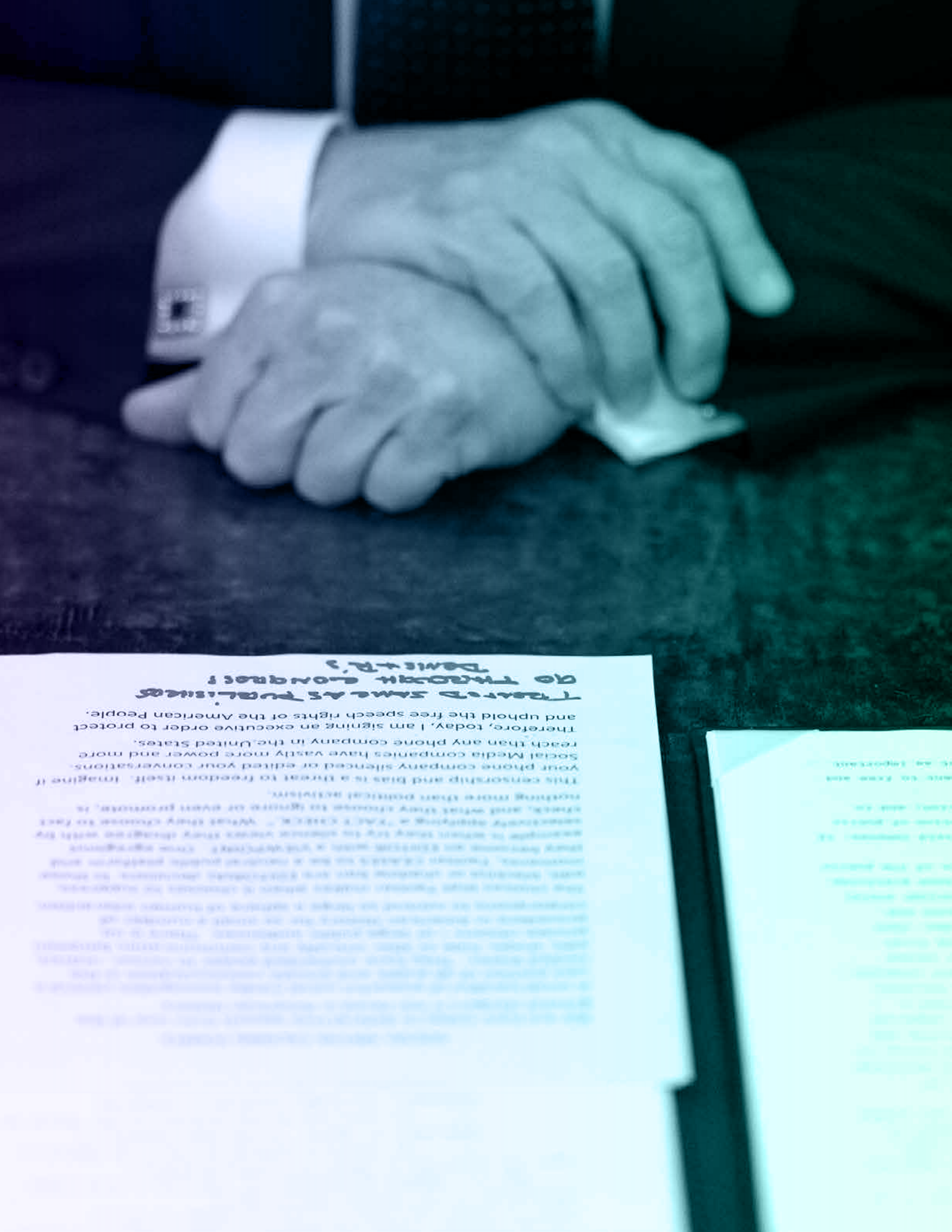


Replaying the Trump Card

Exploring Regulatory Implications of a Second Trump Presidency

CAPSTONE



nothing more than political activism.
This censorship and bias is a threat to freedom itself. Imagine if your phone company silenced or edited your conversations. Social Media companies have vastly more power and more reach than any phone company in the United States.
Therefore, today, I am signing an executive order to protect and uphold the free speech rights of the American People.
Treated same as publisher go through congress! Dems+R's

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MAKE AMERICA GREAT AGAIN
STANDS WITH
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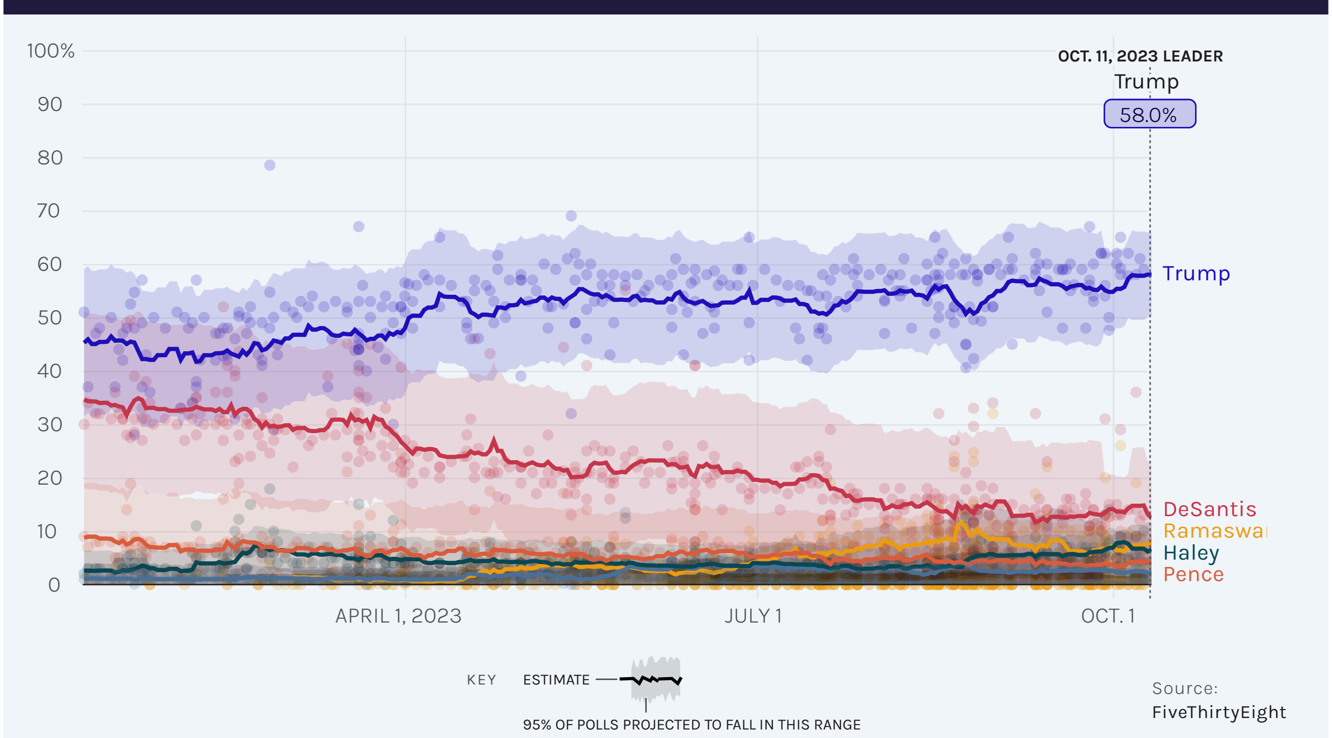
Introduction

It's time to consider the possibility that Donald Trump will be reelected to a second term in the White House. In many respects, such a scenario sounds implausible: only one other president (Grover Cleveland) left the White House and successfully returned for a second term four years later – not to mention the four indictments, 91 felony charges, and countless other investigations and controversies circling the former president.

Yet polling shows that Trump is not only favored to win the Republican primary, but he is neck-and-neck with President Biden in the general election. According to FiveThirtyEight, Trump is leading with a majority in national Republican primary polling, multiples of next-best Florida Governor Ron DeSantis. In a general election contest between Biden and Trump, polls show a toss-up—or even a slight Trump edge.

NATIONAL REPUBLICAN PRIMARY POLLING, AS OF OCTOBER 11, 2023



In this report, we analyze how we expect US regulatory policy would evolve under a second Trump term across four sectors: energy and sustainability; financial services; health and public services; and communications, media, and technology.

We expect several policy themes to resonate across sectors. A notable theme is deregulation. Regulatory agencies, from the Consumer Financial Protection Bureau (CFPB) to the Environmental Protection Agency (EPA), will pursue a pro-business, deregulatory agenda consistent with Trump's first term. Second is the absolute importance of Trump's advisors and appointees. Leadership in Trump's first term included a mix of pro-business, establishment Republicans, and right-wing populists, which created an environment of jostling and hostility that drove—and sometimes hampered—policy developments. "Personnel is policy," and in no regime is that truer than in a Trump White House.

But we foresee several less-obvious policy implications of a Trump second act that we believe our corporate and investor clients should be paying attention to.

In Energy and Sustainability, we believe the Inflation Reduction Act (IRA) is here to stay, despite no shortage of Republican ire under a Trump White House. Any action by a Republican Congress on the IRA would likely target narrow changes to tax credits and programs, instead of wholesale repeal. Where Republicans are likely to have more success is the weakening, and maybe scrapping altogether, of the EPA's Power Plan Rule—a positive for fossil generation owners, delaying the energy transition and reducing incentives for new renewables and existing nuclear power. We also expect states to step in and try to pick up the slack on environmental policy. And we expect a return of Trump, the self-proclaimed "tariff man," a positive for domestic manufacturers but turbulent for many others.

Financial Services policy will be dominated by the drumbeat of deregulation. We believe the CFPB would be gutted, perhaps even more than in Trump's first term, positive for credit card issuers and other companies specifically targeted for enforcement or rulemaking in the Biden Administration. In banking, the so-called Basel III endgame, a July 2023 proposed rule that tightens capital requirements for large banks, may face delays or revisions amidst strong industry and Republican opposition. And after a quiet four years, discussion around "GSE reform"—releasing Fannie Mae and Freddie Mac, the two mortgage giants, from conservatorship—would likely return.

In the Health and Public Services sector, we believe behavioral health would see a resurgence in attention as it sits at the rare nexus of bipartisan support and border security. But like in Trump's first term, a second Trump Administration would likely expand nontraditional health insurance at the expense of Affordable Care Act (ACA) insurers. And we believe hospitals would benefit from large uncompensated care waivers favored by the Trump Administration.

In the Communications, Media, and Technology sector, we believe regulators will continue to turn up the heat on big tech, as antitrust enforcement outlook is unlikely to improve early in a second Trump administration due to the FTC's term structure as well as bipartisan scrutiny of big tech. We expect tech policy to continue to get tougher on China—a rare area of continuity between Trump's first term and Biden's. And artificial intelligence (AI) will face a challenging state-by-state environment, following the path of privacy regulation, with states taking the lead in lieu of federal action.

Control of Congress will play an important role in defining the policy objectives of a second Trump term. Democrats face an uphill battle to maintain control of the Senate in 2024, with several vulnerable states. If Trump wins the White House, he may very well have unified control of the House and Senate, allowing the Trump administration to shape a more ambitious tax, regulatory, and legislative agenda.

At Capstone, we will continue to closely evaluate how "Trump 2.0" and other political scenarios will drive US and international policy and its implications across all sectors.

Energy & Sustainability

Capstone believes a second Trump presidency would have several underappreciated implications for energy & industrial policy, including the durability of the Inflation Reduction Act (IRA) despite expected attacks, a weakening of the EPA Power Plant Rule, renewed state policymaking, and the return of the aggressive use of tariffs.

1. The IRA Is Here to Stay

Capstone believes it is unlikely that a Trump presidency, even with a Republican Congress, would be able to fully repeal key tax credits included in the Inflation Reduction Act (IRA). We believe any action a Republican Congress takes against the IRA would target narrow changes to tax credits and programs rather than wholesale repeal, particularly given the IRA's economic contribution to Republican states.

Tax credits for consumer-facing clean energy products like rooftop solar and electric vehicles likely would be at a higher risk under Republicans. We believe tax credits for biofuels, carbon capture, hydrogen, nuclear energy, and domestic manufacturing are unlikely to be targets of a Republican Congress. Notably, biofuels tax credits were omitted from a House Republican Debt Ceiling bill passed in late April to win the Iowa delegation's votes, highlighting stiff opposition even in a bill that was viewed as symbolic with little chance of passage.

Winners	Plug Power (PLUG)
	Darling Ingredients (DAR)
	First Solar (FSLR)
	Constellation (CEG)
	Green Plains (GPRE)
	Clean Energy Fuels (CLNE)
Losers	Sunrun (RUN)
	Tesla (TSLA)

While we do not expect any legislative changes to the IRA, we do expect a Trump administration would attempt to alter implementation rules for various tax credits—particularly credits based on carbon intensity—to provide more favorable treatment to fuels with higher emission profiles like crop-based fuels and methane-based hydrogen.

2. The EPA Power Plant Rule to Be Weakened or Scrapped Altogether

Winners	NRG Energy (NRG) Vistra Energy (VST) American Electric Power Company (AEP) Calpine Corp. LS Power
Losers	NextEra Energy (NEE) Constellation Energy (CEG)

Capstone believes that the US Environmental Protection Agency (EPA) policy establishing carbon standards for new and existing fossil plants would likely be weakened or scrapped altogether in a Trump presidency. The rule, proposed in May 2023, would set stringent carbon emissions standards for fossil plants, including emissions limits commensurate with utilization of carbon capture and hydrogen co-firing technology.

This is the third iteration of the EPA's attempt to promulgate a carbon rule for power plants. Prior iterations under the Trump administration (the ACE rule) and the Obama administration (the Clean Power Plan) were overturned through political and legal actions. Given the lack of legal precedent, we believe the vulnerability of this EPA rule is underappreciated, as it is more susceptible to repeal under a new administration than the EPA's other existing and updated power plant rulemakings.

We expect that the lack of strong political and legal precedent, coupled with the strong stakeholder pushback from the fossil industry and Republican lawmakers, would motivate a Trump EPA to roll back many of the provisions in this rule. We believe Trump's EPA policies would be favorable to fossil generation owners, delaying the energy transition and reducing incentives for new renewables and existing nuclear.

3. States Would Try to Pick Up the Slack on Environmental Policy

Winners	Utilities (PG&E [PCG] and Public Service Enterprise Group [PEG]) Electric vehicle manufacturers (Tesla [TSLA] and Rivian Automotive [RIVN]) Clean energy/hydrogen producers (NextEra Energy [NEE] and Plug Power [PLUG])
Losers	Heritage Power, GenOn Energy Competitive Power Ventures

Capstone believes that Democratic state governments would seek to implement more aggressive climate policies to make up for a perceived lack of action at the federal level. President Trump's first term saw an unprecedented wave of climate policies implemented at the state and local level, including many of the nation's 100% renewable energy targets.

We believe a second Trump term would reignite this trend, with states accelerating existing goals, strengthening existing regulations, and expanding climate policy in high-emitting sectors that, up until this point, have taken a back seat to the power sector from a policy perspective such as transportation and heavy industry.

4. The "Tariff Man" Would Return

Winners	Domestic manufacturers (US Steel [X], Cleveland-Cliffs [CLF])
Losers	Retailers (Walmart [WMT] and Amazon [AMZN]) Downstream industries, and high-profile US companies impacted by retaliatory actions (Levi Strauss [LEVI], Brown Forman [BF.B])

Capstone believes a second Trump term would once again see the aggressive use of the president's executive authority to increase tariffs on a wide range of industries.

Trump, a **self-proclaimed** "tariff man," has proposed to impose a blanket 10% tariff on US imports. While implementing a true all-encompassing tariff might prove tricky, Trump could easily expand existing tariffs that remain in place from his first term or apply new sector-specific tariffs.

Notably, he would not require congressional approval to do so.

Several options we would highlight include the following:

- China: President Trump could increase existing Section 301 tariffs on imports from China.
- Metals: President Trump sought to protect domestic steel and aluminum producers with Section 232 tariffs during his first term. He could revise those tariffs or seek to reapply them to trading partners that have been exempted from them under the Biden administration (such as the EU).
- Autos: Trump could once again consider imposing tariffs on auto imports as he did in his first term.

Financial Services

Capstone believes a second Trump presidency would have several underappreciated implications for financial services, including the gutting of the CFPB, renewed urgency to release Fannie and Freddie from conservatorships, and a rising risk of the delay or a watering down of Basel III implementation in the US.

1. The Consumer Financial Protection Bureau (CFPB) Will be Gutted… Perhaps More Than Expected

Capstone believes a second Trump administration would likely further weaken the CFPB—to a greater extent than even the first Trump administration. After Richard Cordray resigned as the CFPB director in November 2017, Trump initially appointed Mick Mulvaney, a CFPB critic, as interim director. Mulvaney dropped some ongoing litigation, made statements indicating the CFPB would have a narrow focus only on activities explicitly approved by Congress, and announced a review of the bureau's Payday Lending rule. However, Mulvaney was replaced by Kathy Kraninger, a career civil servant, in December 2018. In her two years leading the CFPB, the bureau took an average of 35 enforcement actions, below the average of 39 under Cordray but well above the 11 from Mulvaney in 2018 and the 18.3 per year to date under current director Rohit Chopra, although consumer advocacy groups criticized Kraninger for extracting relatively small financial penalties.

Following the Supreme Court's **Seila Law** opinion in 2020, the president can replace the CFPB director at will. This would allow President Trump to install a new director for a full four years, and we would expect a more ideological selection. Such a choice would likely begin by reversing Director Chopra's agenda. This could include dropping ongoing litigation or agreeing to a manageable settlement with companies including TransUnion, Credit Acceptance Corp., MoneyGram Intl. Inc., and Populus Financial Group (doing business as Ace Cash Express). New leadership would likely also roll back any rulemaking that has not gone into effect, including the proposed lower credit card late fee safe harbor and the small business lending disclosure rules.

Winners	TransUnion (TRU) Credit Acceptance Corp. (CACC) MoneyGram International Inc. (MGI) Populus Financial Group Upbound Group Inc (UPBD) PROG Holdings Inc (PRG) Synchrony Financial (SYF) Bread Financial Holdings Inc (BFH)
Losers	None

The Trump administration would have a greater ability to reshape the CFPB if the bureau's appropriations model is found unconstitutional in **CFPB v. Community Financial Services Assoc. of America**, which we expect the Supreme Court to decide in June 2024. If that occurs, the administration would influence the modified CFPB in its formative phase, even if Congress passed legislation resolving the appropriations structure in late 2024. The administration would impact the number of appropriations, which we anticipate would be significantly lower, driving a loss of manpower and stagnating the bureau's regulatory and enforcement efforts. A compromise agreement in Congress to fund the CFPB would also likely impose more restrictions on the bureau, including a modified cost-benefit analysis of rules that could be used by the administration to abandon or roll back prior regulatory efforts.

2. Administration Would Resume Efforts to Release Fannie, Freddie from Conservatorship… but Success Will Depend on Treasury, FHFA Leadership

Capstone believes a Trump victory in 2024 would reignite administrative urgency to release Fannie Mae (FNMA) and Freddie Mac (FMCC)—the government-sponsored enterprises (GSEs)—from conservatorship. Momentum to recapitalize and release the GSEs from conservatorship stalled under the Biden administration, with Federal Housing Finance Agency (FHFA) Director Sandra Thompson deferring to Congress. We believe inaction was partly driven by the Biden administration's desire to further its housing policy agenda despite a divided Congress. Retaining control of the GSEs through its conservator, FHFA, has given the administration an avenue to enact housing policy that furthers its agenda.

Winners	Federal National Mortgage Assoc. (FNMA) Federal Home Loan Mortgage Corp. (FMCC)
Losers	None

In contrast, the prior administration under former President Trump took several actions to bring the GSEs closer to exiting conservatorship—including amending the GSEs' Preferred Stock Purchase Agreements to allow the GSEs to retain earnings

and permitting them to execute a capital raise to stabilize their financial capital positions at a future date. Since leaving office, Trump has indicated he would have taken more steps to release the GSEs if he had more time to do so. Trump sent a letter on November 11, 2021, to Sen. Rand Paul (R-KY) indicating that if the FHFA director had been fireable by the president before the Supreme Court's June 2021 decision in Collins v. Yellen, he would have "… fired former Democrat Congressman and political hack Mel Watt from his position as Director and… ordered FHFA to release these companies from conservatorship…[and] would have also sold the government's common stock in these companies at a huge profit and fully privatized the companies."

Despite the former president's rhetoric, we believe actions taken under his administration to release the GSEs from conservatorship were largely driven by then-FHFA Director Calabria and then-Treasury Secretary Steven Mnuchin—who, together, had a unique combination of housing policy reform and financial markets expertise that was necessary to construct and execute a GSE reform plan. Calabria had previously worked as senior aid to the US Senate Banking Committee and was instrumental in drafting the Housing and Economic Recovery Act of 2008, which reformed the GSE regulatory framework. Prior to assuming the role of Treasury Secretary, Mnuchin had built a career as a global financial markets expert serving in many C-suite positions, including as Partner and Chief Information Officer of Goldman Sachs Group, Inc. Calabria and Mnuchin's combined experience and drive to bring the GSEs out of conservatorship was unique, and in our view, the reason why the administration was able to make strides toward GSE reform. We believe a Trump 2.0 administration's ability to accomplish GSE reform would largely depend on who is appointed to lead FHFA and Treasury. We believe any incremental steps taken by a second Trump administration to release the GSEs from conservatorship would benefit common and preferred shares of Fannie Mae and Freddie Mac.

3. A Trump Administration Would Move to Slow or Block the Basel III Endgame

Winners	JPMorgan Chase & Co. (JPM) Bank of America Corp. (BAC) Wells Fargo & Co. (WFC) Citigroup Inc. (C) Goldman Sachs Group Inc. (GS) Morgan Stanley (MS) BNY Mellon (BK) State Street Corporation (STT)
Losers	None

Capstone believes a second Trump term would decrease the likelihood that federal bank regulators will implement a finalized Basel III Endgame rule, anywhere close to the version that was recently proposed. Republicans and some Democrats have publicly complained about the proposed Basel III Endgame rules, which, as proposed, would increase capital requirements for globally systemically important banks (G-SIBs) by as much as 20%. A Republican administration opposed to the heightened capital requirements for banks could meaningfully delay, weaken, and ultimately derail rule implementation.

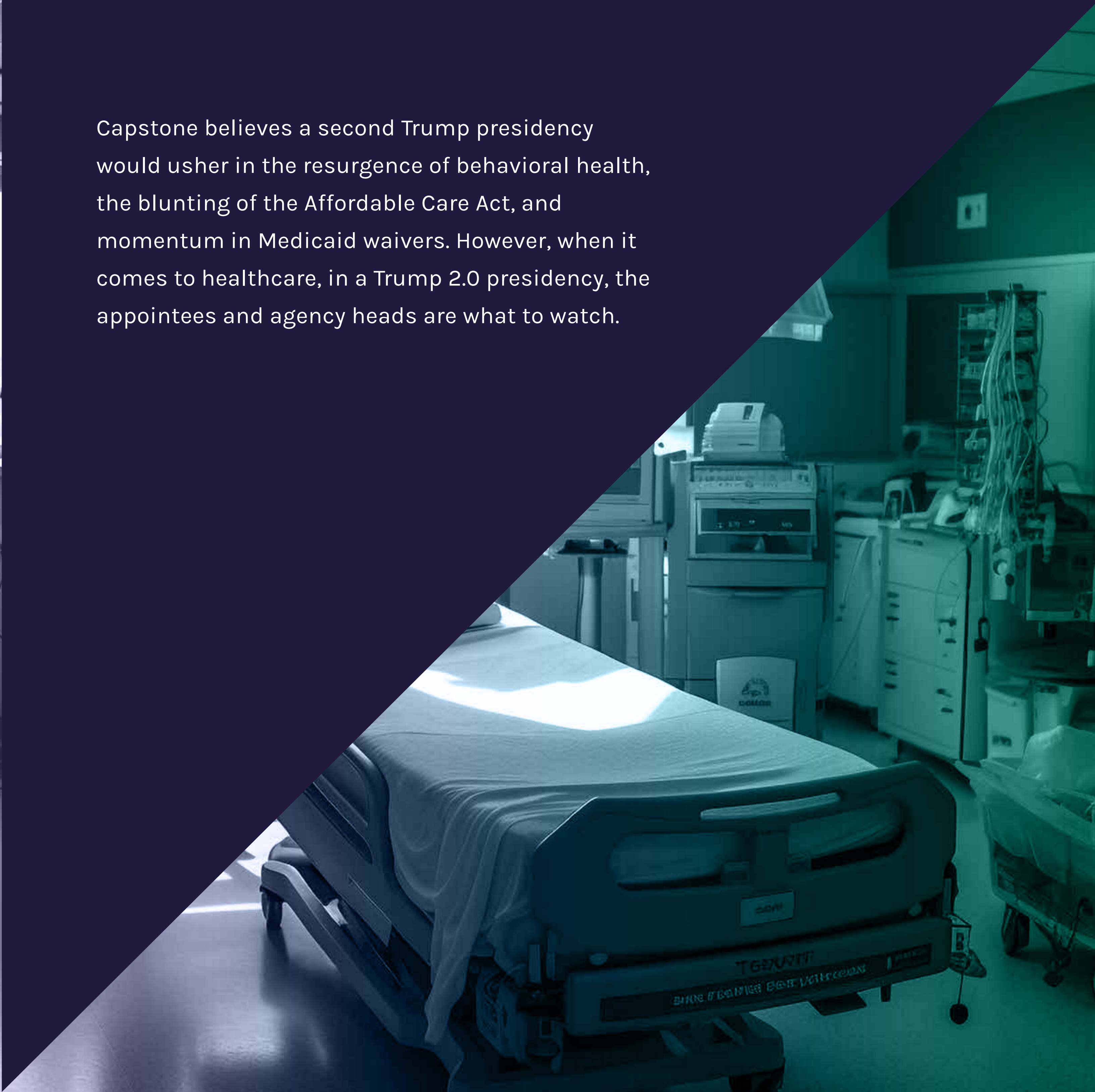
The Basel III Endgame rule is expected to be finalized sometime in mid-to-late 2024, before the Presidential election. The previous Trump administration demonstrated a greater willingness than previous administrations to utilize the Congressional Review Act (CRA) to reverse regulations. Were the rule finalized with less than 60 legislative days left in the 118th Congress, the Trump administration would have license to work with the House and Senate to nullify the rules utilizing the CRA. Rule recission using CRA would also substantially limit federal regulators' ability to soften and re-propose a rule due to the CRA's statutory limitation on agencies' reissuance of a rule that is substantially the same as a rule that was subject to the CRA process.

Beyond full rule recission, a Trump administration could exert pressure on the rulemaking implementation and roll-out process through appointments at the FDIC and OCC, who are jointly tasked with the Federal Reserve in developing and implementing the Basel rules. The Comptroller of the Currency serves at the direction of the President and is not afforded "for-cause" removal protections that are provided for Federal Reserve Governors. President Trump would have the authority to immediately appoint a Comptroller who could take steps to slow down the rule implementation process. The five-member FDIC board also includes the OCC Comptroller and the CFPB Director, so a shift at the White House could tilt the balance of power at the Federal Deposit Insurance Corporation (FDIC) towards Republicans. While Chair Martin Gruenberg could remain in place, Republicans appointed to the FDIC would outnumber Democrats and could take steps to slow, delay, or challenge a finalized rule. Additionally, while the current Governors at the Federal Reserve have all been confirmed for terms that extend into 2026 or beyond, any departure from a Democrat-appointed Governor would give the administration an opportunity to appoint leadership interested in challenging the Basel Endgame.

Beyond possible executive branch-led challenges to the Basel rules, Capstone believes that the rules will likely have to survive a legal challenge brought forth by industry. We believe that industry leaders are prepared to file suit to challenge the rules on grounds that regulators have not sufficiently adhered to procedural rulemaking requirements and have failed to adequately justify the rule's capital increases. Any softening or recission of Basel rules would be significantly beneficial for the G-SIBS and other large regional banks that would face heightened capital requirements under the new rules.

Health and Public Services

Capstone believes a second Trump presidency would usher in the resurgence of behavioral health, the blunting of the Affordable Care Act, and momentum in Medicaid waivers. However, when it comes to healthcare, in a Trump 2.0 presidency, the appointees and agency heads are what to watch.



1. Behavioral Health, Substance Use Treatment, Institutionalization, Payer Parity Reform Will Gain Prominence

Capstone believes that behavioral health would see a resurgence in attention under a Trump administration. Besides benefiting from bipartisan support- a rarity in this political climate- behavioral health is likely to gain from implication in border control and immigration reform, a priority for Trump. The former President blames drug cartels and lack of border security for the rise of the opioid epidemic in the US, and has supported bipartisan Congressional efforts expanding access to opioid use disorder (OUD) treatment. Trump plans to reintroduce institutionalization and treatment for mental health disorders, which could drive up demand for inpatient OUD treatment services, including Acadia Healthcare and Universal Health Systems.

Winners	Acadia Healthcare (ACHC) Universal Health Systems (UHS)
Losers	Insurers, namely UnitedHealth Group Inc. (UNH) Humana Inc. (HUM) Elevance Health Inc. (ELV)

More significant behavioral health reform – such as coverage parity for insurance payers still relies on Congressional action. New regulations in 2024 for the Affordable Care Act (ACA) and Medicare Advantage (MA) plans will expand mental healthcare provider networks, but true parity reform will require additional legislation.

This year's Congress has failed to build on 2022's burst of behavioral health legislation thus far but is likely to pursue stronger parity reform in 2024 through a combination of oversight tools, including increased plan transparency and reporting, and funding for states to pursue healthcare plans out of compliance.

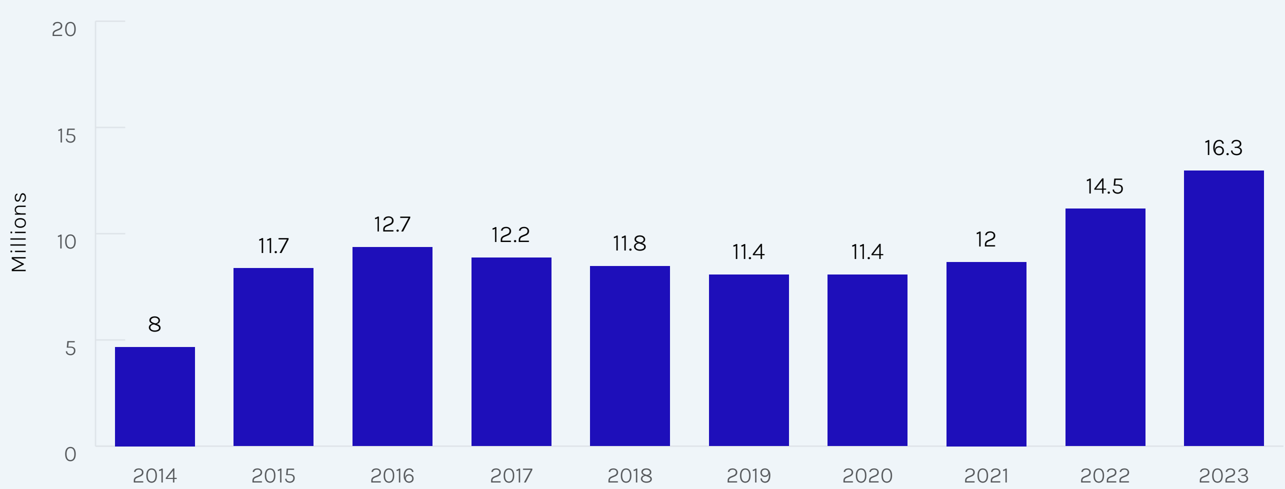
2. Resurgence of Nontraditional Insurance Plans Will Blunt ACA Enrollment

Winners	Non-traditional health insurers, namely insurers focusing on short-term and fixed indemnity policies
Losers	Affordable Care Act (ACA) insurers, namely United Health Group Inc. (UNH) Aetna (CVS) Elevance Health Inv. (ELV) Oscar Health Inc. (OSCR) Cigna Health Group (CI)

Capstone believes nontraditional health insurance types, including short-term limited-duration and fixed indemnity plans, would benefit from a Trump administration. Viewed as one of the primary ways to cannibalize ACA enrollment, nontraditional health insurance has historically been expanded under Republican administrations and restricted under Democratic regimes. This trend held true for the first Trump Presidential term.

In April 2018, the Trump administration HHS issued a **rule** expanding short-term limited-duration insurance from 3 months to 12 months and allowing policy renewals for up to 36 months. This past summer,

EXHIBIT 1: ACA ENROLLMENT



Source:
Capstone analysis, US Department of Health and Human Services

the Biden administration **reversed** the expansion, restoring the limit to the Obama-era 3 months and restricting renewals.

Capstone believes this flip-flop of 3 to 12 months will continue to occur as administrations switch political parties, creating volatility in the nontraditional insurance market and the ACA exchanges, namely UnitedHealth Group, Aetna, Elevance, Oscar, and Cigna. Private carriers and brokers of nontraditional policy types- who are largely privately held- would benefit from increased enrollment. Conversely, insurers with significant ACA footprints would face membership losses.

Enhanced COVID-19-era subsidies for individuals on the ACA are also set to expire at the end of 2025. Democratic lawmakers are expected to try and make a deal with their Republican counterparts who want to extend tax cuts in the Tax Cuts and Jobs Act (TCJA), but a Trump presidency could complicate this, further harming ACA insurers if the subsidies are not extended.

3. Resurgence in Medicaid Waivers to Benefit Hospitals, Harm Managed Care Organizations

Winners	Tenet Healthcare Corp. (THC) HCA Healthcare Inc. (HCA) Community Health Systems Inc. (CYH) Universal Health Services Inc. (UHS)
Losers	Medicaid managed care organizations (MCOs), namely Centene (CNC) and Molina (MOH)

Capstone believes that hospitals, including Tenet, HCA, Community, and Universal, will benefit from large, uncompensated care waivers favored by the Trump Administration.

During Trump's final weeks in office, the Centers for Medicare & Medicaid Services (CMS) approved significant uncompensated care (UCC) waivers in **Florida**, **Texas**, and **Tennessee**, three non-Medicaid expansion states. UCC waivers provide hospitals with additional funds for treating uninsured individuals. While waivers are considered 'demonstrations,' and therefore are often only approved short a few years at a time, the states received approval for 10 years, an intentional move designed to avoid funding reductions during future Democratic administrations as a punishment for not expanding Medicaid.

Capstone believes that more states, including non-expansion ones, could receive similar approvals under a Trump administration, boosting funding for hospitals with significant uninsured patient populations.

Additionally, Capstone believes Medicaid work requirement waivers could reemerge under a Trump administration. In January 2018, CMS sent a letter to state Medicaid directors inviting waiver applications to implement work requirements, primarily targeting the Medicaid expansion population. In the years following, the Trump administration approved 13 state work requirement waivers and left nine pending approvals. Only Arkansas, however, was able to implement its work requirement due to legal challenges in other states.

A second Trump Administration is likely to approve more work requirement waivers; however, legal challenges would likely prevent broad implementation. If implemented, however, many individuals will become uninsured, decreasing MCO revenue and increasing uncompensated care in hospitals.

4. Appointees Likely to Have Significant Underappreciated Authority

Trump was not a healthcare president. Despite constant campaign-trail calls for repealing and replacing the Affordable Care Act (ACA), the topic all-but died once Trump entered office. The President never even attempted to vocalize what exactly he wanted to replace the ACA with. Even now, Trump's Presidential archives page leaves healthcare entirely off, instead touting wins in foreign policy, immigration, national security, and energy.

In office, Trump's apathy towards healthcare took shape in the form of the President delegating nearly all healthcare decisions and priorities to his cabinet appointees and agency heads. The administration became a champion for kidney care because then-Secretary of Health and Human Services (HHS) Alex Azar's father had suffered on dialysis for years. The monumental Direct Contracting Model – now ACO REACH – was launched under the Trump administration not because of Trump himself being passionate about risk-bearing primary care, but because of lifelong staffers in the innovation center.

If a Trump 2.0 presidency is anything like his first, the appointees and agency heads are what to watch, not Trump himself. Depending on who fills these positions, a Trump 2.0 healthcare agenda could look vastly different from what we saw 4 years ago.

Technology

Capstone believes that in a second Trump presidency, we would see the administration keep the heat on big tech, states drive regulation of artificial intelligence in the absence of federal action, and the federal government further escalate the US-China Tech Cold War.

1. Tech Antitrust Environment Remains Fraught

Winners	Non-tech acquisitions
Losers	Alphabet (GOOGL) Amazon (AMZN) Meta (META) Microsoft (MSFT)

Capstone believes a second Trump administration would keep the pressure on the technology industry, as the antitrust enforcement outlook is unlikely to improve in the first years of a Trump administration. Any improvements would come from small adjustments by the Department of Justice (DOJ) under a new assistant attorney general for the antitrust division.

The Federal Trade Commission's (FTC) term structure would allow Democrats to maintain control of the agency until at least September 2026, when Alvaro Bedoya's term ends. To do so, the Senate would need to re-confirm Rebecca Slaughter and Chair Lina Khan before the end of the 118th Congress on January 3, 2025. Of the two, Chair Khan's re-appointment is more fraught. Her term ends in September 2024, leaving only three months for the Senate to push her re-nomination through committee and a floor vote against what is likely to be a volatile legislative environment. That said, FTC commissioners can stay in place past the end of their terms indefinitely if a replacement is not confirmed. We do not expect a Democratic-majority Senate would cooperate with a Trump administration on FTC appointments, raising the likelihood of a "zombie" FTC for as long as Democrats retain the Senate.

Trump would likely replace DOJ appointees on a faster timetable, which could result in the resumption of DOJ's granting of early terminations of the Hart-Scott-Rodino Act review process after a halt in 2021 or a derailment of the effort to update merger guidelines used by the antitrust enforcers. However, we think incremental tailwinds from early terminations are likely to accrue outside of tech mergers. The tech giants remain popular bipartisan targets, and we do not expect that would change in the event of Trump's re-election.

2. AI Providers Would Face Challenging Multistate Regulatory Regime

Winners	RegTech providers
Losers	Alphabet (GOOGL) Amazon (AMZN) Meta (META) Microsoft (MSFT)

Capstone believes artificial intelligence (AI) regulation would follow privacy regulation's path, with states going their own way in the absence of federal action. Like with privacy, there is broad consensus on the principles that should drive regulatory efforts for AI, counterbalanced by concerns about national security and US companies retaining market leadership.

At the end of his presidency, Trump signed Executive Order (EO) 13960 on the use of AI in federal agencies along the usual lines of safety, transparency, and accountability. It also directed the agencies to prepare annual inventories of their use cases for AI (current and planned). The Biden administration expects to release an EO in October that will reportedly bridge the voluntary AI principles that 15 leading AI companies agreed to with boundaries on federal AI use.

We expect that a re-elected Trump would follow this path, and that Congress would be unwilling to legislate on the issue. This is a significant contrast to the progress by the California Privacy Protection Agency in its "Draft Risk Assessment Regulations" discussed at its September 2023 board meeting. The draft regulation makes an important distinction between AI and automated decision-making technology (ADT). The draft regulation would require risk assessments akin to those in the EU AI ACT and provide explicit protections around using personal information to train models.

Without preemptive federal efforts, AI providers will face a challenging multistate regulatory regime with compliance and enforcement risks.

3. Tech Policy Would Get Tough(er) on China

Capstone believes that US tech policy would continue to be hostile to China in a second Trump term. While the Biden administration avoided the spectacle of a commodities trade war, its approach to export controls, sanctions, and decoupling all continued policy trends that the first Trump administration began. We believe Trump would follow through on the August 2020 EO requiring ByteDance to divest TikTok as a result of a CFIUS determination. Upon divestiture, TikTok's recommendation algorithm—and thus its competitive advantage—would remain relatively static, providing an opportunity for Meta's Instagram Reels and other short-form video products to catch up.

We expect similar follow-through on export controls and the attempt to halt China's development of advanced semiconductors. In the Trump worldview,

Winners	Meta (Meta)
	Snap (SNAP)
	Oracle (ORCL)
Losers	Nvidia (NVDA)
	Intel (INTC)
	Qualcomm (QCOM)
	Temu (PDD)
	Bytedance

Biden's success in completing negotiations over third countries' (Netherlands, Japan) imposition of similar export controls that Trump started likely requires a bigger and bolder redux.

About Capstone

Capstone is a global, policy-driven strategy firm helping corporations and investors navigate the local, national, and international policy and regulatory landscape.

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We tailor our work to help our clients predict meaningful policy and regulatory backgrops, quantify their impact, and recommend strategies that unveil novel opportunities and avoid hidden risks.

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