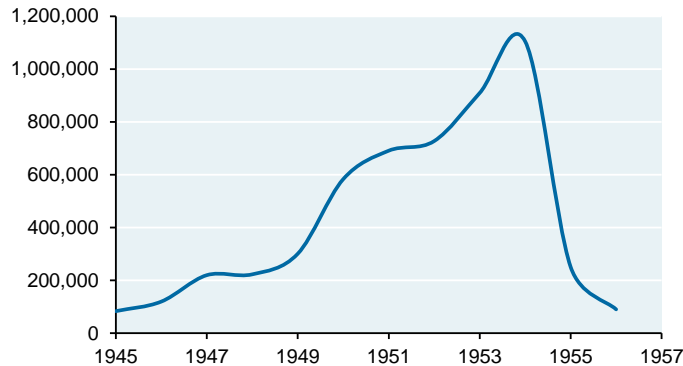


From Here to Eternity: tracking Trump’s economic, market and constitutional milestones

Whether you’re elated or despondent about the blizzard of changes emanating from Washington, let me remind you of something: two years is an eternity in US politics. Two examples: Eisenhower deportations and McKinley tariffs. Eisenhower’s deportation surge hit 1.1 million people in 1954 but within 18 months, funding and political support for the program collapsed; deportations fell by over 90% to just 90,000 in 1956. And in the 1890’s, although McKinley tariffs were popular at the time (he championed them as House Ways and Means Committee Chair), they caused an almost immediate inflation spike after which the GOP lost 100 seats in the 1890 midterms. The GOP loss in 1890 is the third largest in the history of the House going back to the Civil War.

Eisenhower deportations

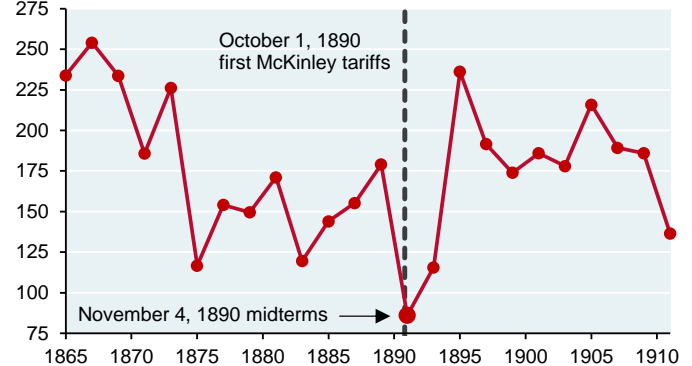
Number of people per year



Source: US Department of Homeland Security, JPMAM, January 2025

McKinley tariff aftermath: 1890 midterms

Republican House seats, adjusted for House size in 1890

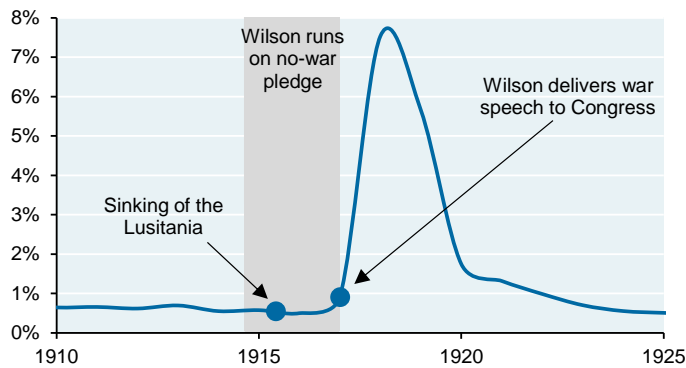


Source: US House of Representatives, JPMAM, January 2025

Two more examples: when running for his second term, Woodrow Wilson ran on the slogan “he kept us out of war” (referring to the onset of WWI in Europe), even after the Germans sank the *Lusitania* in 1915 on which 128 Americans perished. But less than six months after the 1916 Presidential election, Wilson did a U-turn and delivered his war message to Congress. And in 1990, less than two years after running on a “Read My Lips: No New Taxes” pledge, George HW Bush did in fact agree to raise taxes given a recession and rising budget deficits.

Wilson enters WWI

Military spending as a share of GDP



Source: OWID, JPMAM, February 2025

George HW Bush tax hikes in 1990

- Top marginal rate from 28% to 31%
 - Individual alternative minimum tax from 21% to 24%
 - New limits on itemized deductions based on adjusted gross income
 - Cap on taxable wages for Medicare taxes raised from \$53k to \$125k
 - Unemployment insurance surtax of 0.2%
 - New excise taxes on cars, boats, planes, furs, alcohol and cigarettes
- Source: 1990 Omnibus Budget Reconciliation Act

[2025 Eye on the Market Outlook](#)

I used the visual below at an investor conference last week to illustrate the policy mix of the second Trump Administration. As a general principle, economic uncertainty is not great for CEOs and investors, but I'd rather focus on actual data than get too caught up in the theory of what might happen due to tariffs, deportations, deregulation, tax cuts, government agency restructuring, etc. That's particularly true when the pomp and circumstance of certain actions might exceed their economic impact. To create discipline around the discussion of the new Administration, we have created a 3-page tracker to assess in real time (to the extent possible) the impact of Trump policies on the US economy and financial markets.

After the Trump tracker, I added a section on page 6 assessing the constitutional and statutory law challenges that Trump policies face. I would rather have a road map of some kind than nothing at all.

Michael Cembalest
JP Morgan Asset Management

Trump 2.0 policies draw from some faces you might recognize:



Calvin Coolidge (1923-1929)
small-government,
pro-business policies



James Polk (1845-1849)
manifest destiny in the
western hemisphere



Andrew Jackson (1829-1837)
new political order,
deep state battles



Woodrow Wilson (1913-1921)
prewar isolationism



Richard Nixon (1969-1974)
enemies lists, vendettas and
dreams of energy independence



Dwight Eisenhower (1953-1961)
lower corporate taxes and
deportation policies

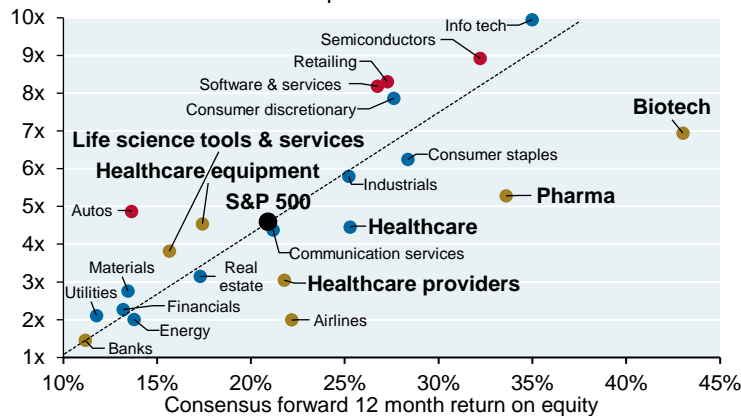


William McKinley (1897-1901)
tariffs and protectionism

Next up in March: our 15th annual Eye on the Market energy paper, and then a piece on healthcare investing. As shown below, biotech-pharma-healthcare provider stocks are priced cheaply relative to their projected RoE.

S&P 500 valuations vs return on equity

Consensus forward 12 month price to book ratio



Source: Factset, JPMAM, February 12, 2025

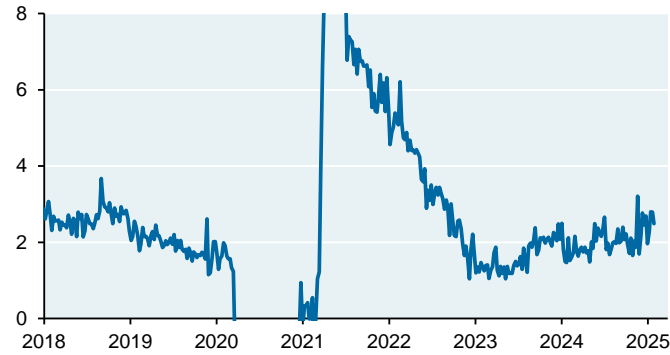
Trump Tracker: growth, capital spending, consumer sentiment, earnings expectations, energy production, inflation, wages, import prices, immigration, regulation and M&A activity

If Trump 2.0 policies materially affect the economy and corporate sector, the impacts would show up here. Most growth indicators are currently positive or improving from weak levels, although firming inflation limits the scope for further Fed easing. We will publish this tracker online and provide a link to it in future pieces.

Growth, capital spending and consumer indicators

Dallas Fed US Weekly Economic Index

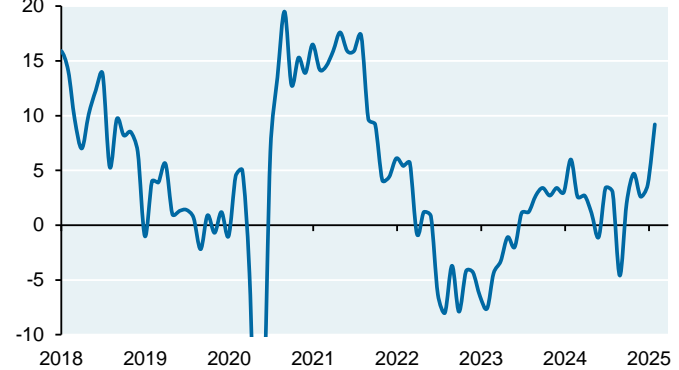
Index (composed of 10 series including unemployment claims, retail sales, fuel sales and electricity utility output)



Source: Bloomberg, JPMAM, February 1, 2025

ISM new orders less inventories

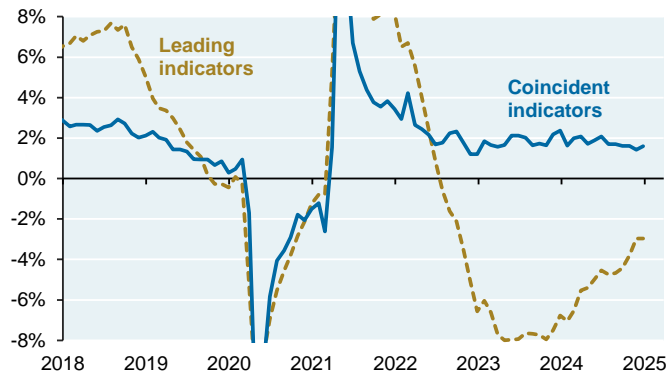
Index



Source: Bloomberg, JPMAM, January 31, 2025

Conference Board coincident and leading econ. indicators

Percent, y/y



Source: Conference Board, JPMAM, December 31, 2024

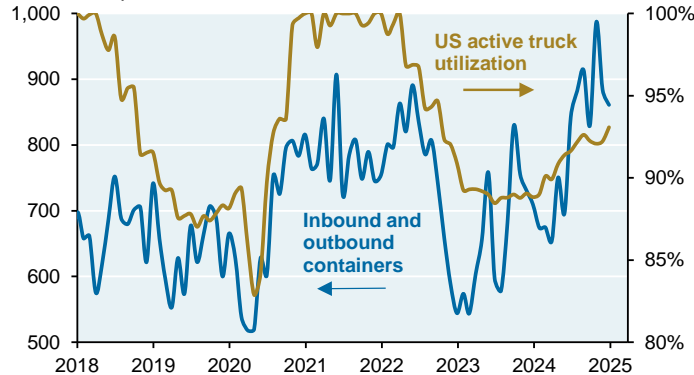
Small business capex plans, % of NFIB Survey respondents planning any capex in next 3-6 months, seasonally adjusted



Source: Bloomberg, JPMAM, December 31, 2024

Long Beach containerships and truck utilization

Containers per month, thousands



Source: Bloomberg, JPMAM, December 31, 2024

Consumer expectations of missing minimum debt payment over next 3 months, Probability

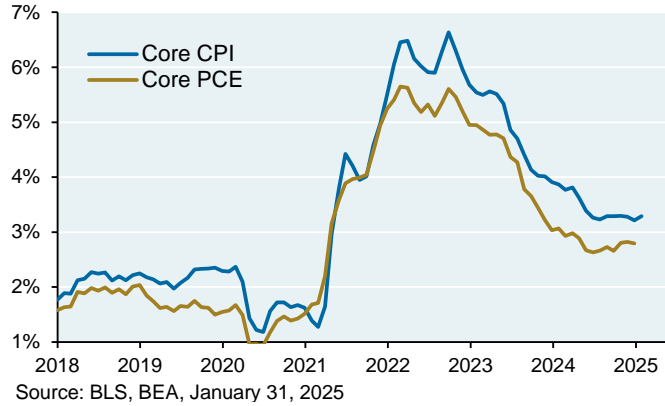


Source: NY Fed Survey of Consumer Expectations, JPMAM, January 2025

Consumer price and wage inflation

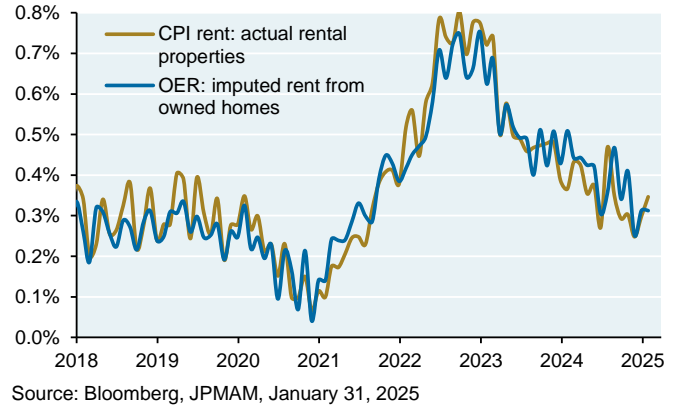
Core CPI and PCE inflation

y/y % change



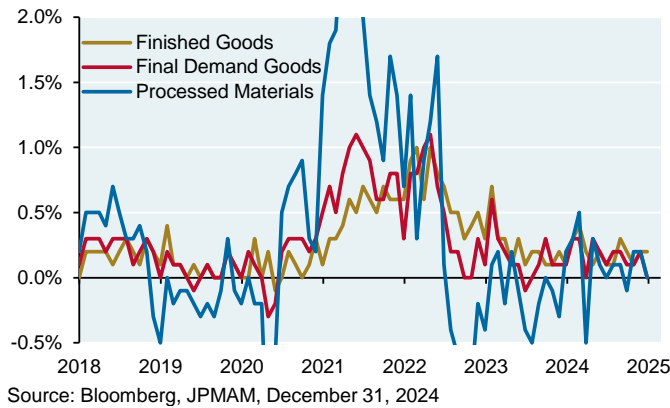
CPI shelter inflation measures

Percent, m/m



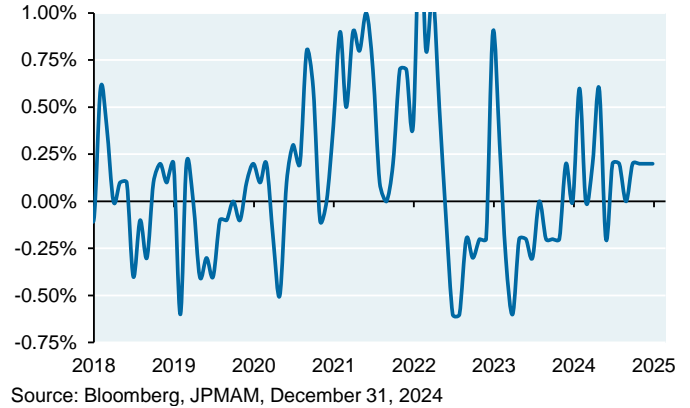
Key core goods PPI components

Percent, m/m



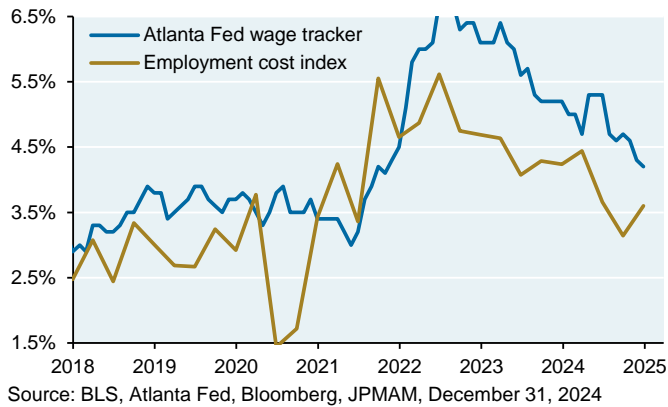
US import price index of goods (ex-petroleum)

Percent, m/m



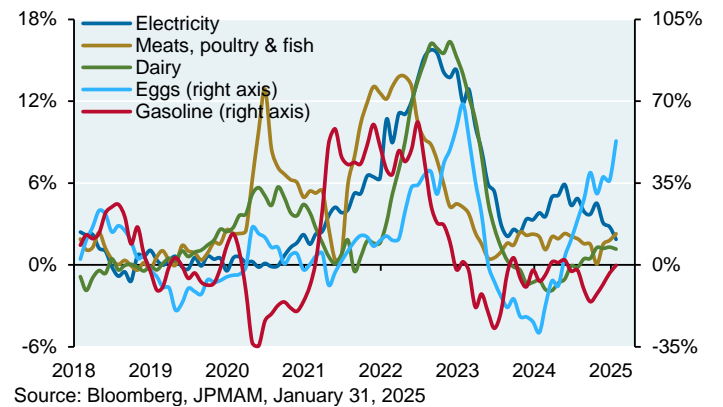
Wage inflation measures

Percent, y/y



Energy and food inflation

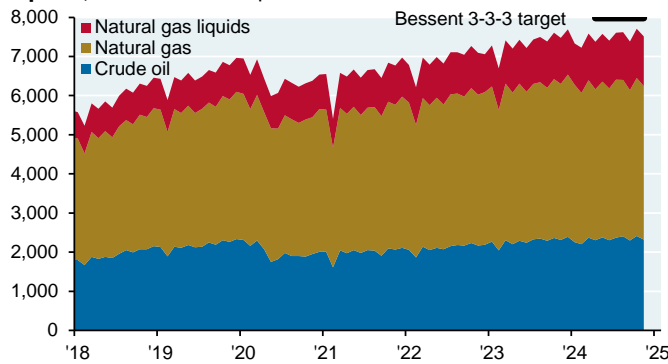
y/y % change



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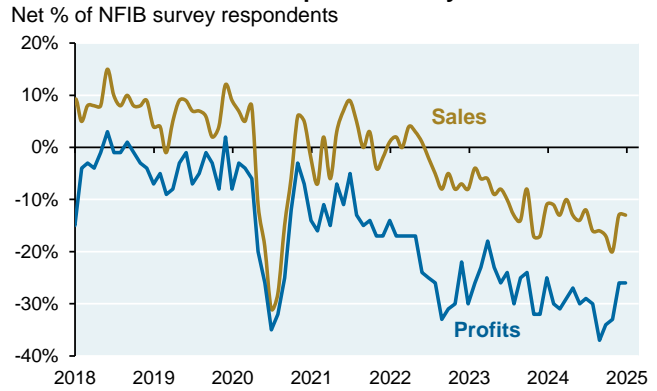
Oil & gas, business surveys, earnings expectations, M&A activity, immigration/deportations and regulation

US production of crude oil, natural gas and natural gas liquids, Trillions of BTUs per month



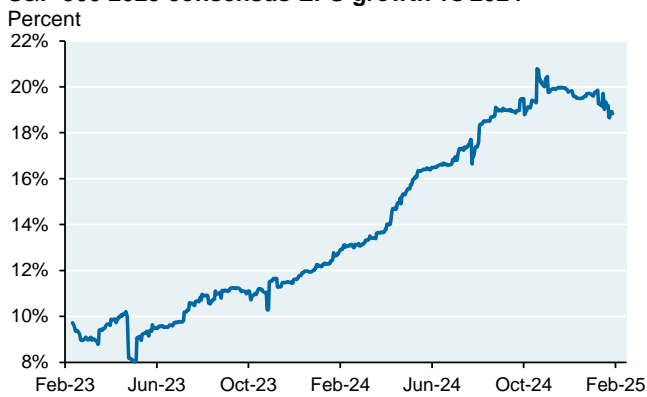
Source: EIA, JPMAM, November 2024

Small business sales and profits surveys



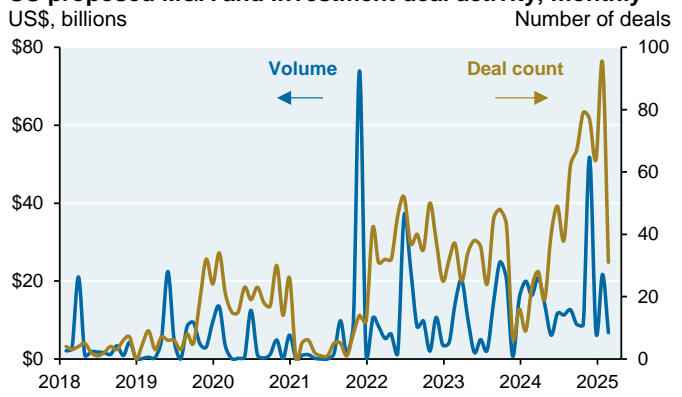
Source: Bloomberg, JPMAM, December 2024

S&P 500 2025 consensus EPS growth vs 2024



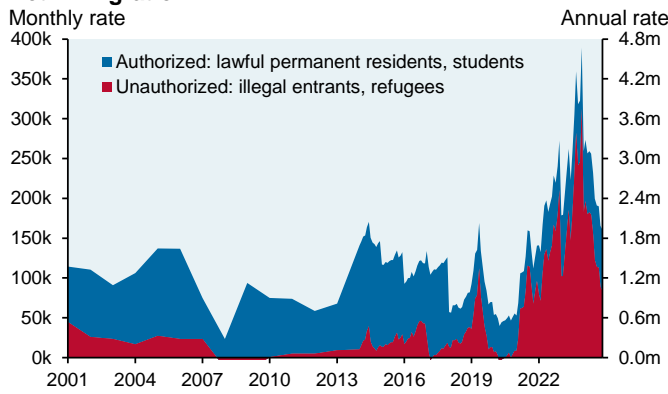
Source: Bloomberg, JPMAM, February 11, 2025

US proposed M&A and investment deal activity, monthly



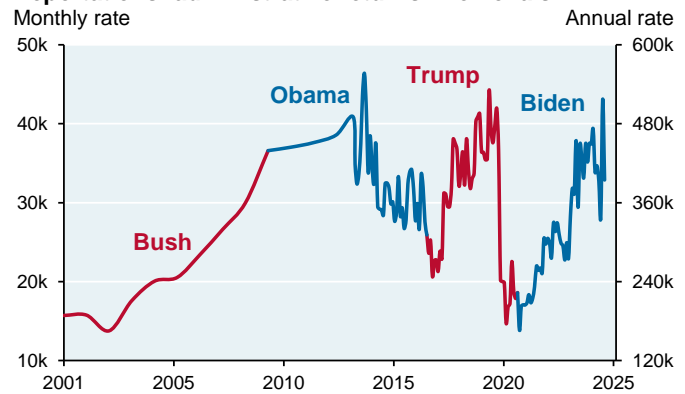
Source: Bloomberg, JPMAM, February 2025

Net immigration



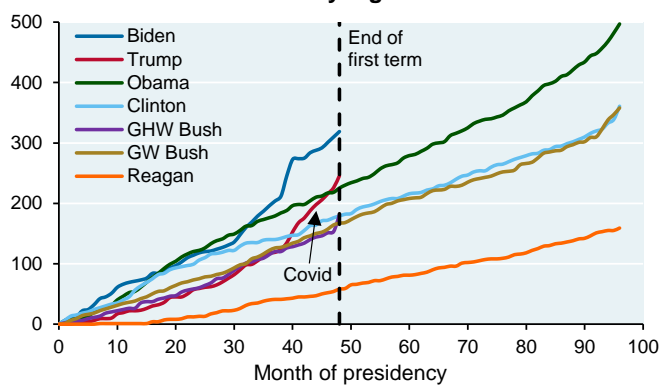
Source: DHS, CBO, Goldman Sachs, JPMAM, November 2024

Deportations: administrative returns + removals



Source: DHS, JPMAM, November 2024

Cumulative # of economically significant rules



Source: GWU Regulatory Studies Center, February 2025

Economically significant rules

- We will update this chart as time passes
- An economically significant rule is defined as having an annual impact of at least \$200 mm according to the Federal Register
- Trump was on track to match the regulatory footprints of Clinton and both Bush Presidents until COVID hit, after which a spike in HHS rules shifted Trump's regulatory count sharply higher

The outer limits of executive power: assessing legal and constitutional issues arising from Trump policies

I wanted to provide our clients with a framework for thinking about the legality of various Trump 2.0 policies, focusing on those most likely to directly or indirectly impact markets and the US economy. While that sounds like a binary yes/no classification exercise, it is anything but. **Let's start with some important caveats:**

- Press accounts may omit key details or fail to fully explain how an action was implemented. In some cases, key legal authorities underlying an act's validity, such as delegations of power pursuant to federal laws, have not been made public. Many Trump Executive Orders do not definitively resolve an issue but instead call for agencies or committees to study a problem and design recommendations. As a result, assessments are tentative and subject to change as additional details become available
- This section focuses on possible constitutional challenges, challenges to the President's statutory authority and typical administrative law challenges. Even an action that is constitutional under most circumstances can be struck down based on how actions are taken. Some decisions attributed to the President may have to be made by agencies in line with the Administrative Procedure Act
- Roughly half of the courts of appeals (including the powerful DC Circuit) have Democratic majorities. As a result, Trump might lose in lower courts in some cases before a higher court rules in his favor. **So far, judges have temporarily blocked:**
 - blanket freezes on federal spending
 - programs to encourage Federal workers to resign [note: this restraining order was just dissolved since plaintiffs lacked legal standing; see footnote 3]
 - Treasury disclosures of payment system details to people outside the department
 - the birthright citizenship order
 - a plan to put 2,000+ USAID workers on leave
 - the 15% cap on indirect NIH research funding costs¹
 - the termination of the head of the Office of the Special Counsel

A district judge also entered a temporary restraining order requiring the CDC and FDA to restore certain healthcare-related webpages that were taken down after the transition pursuant to Trump's orders

- The Supreme Court exists primarily to resolve disagreements across circuits and not simply correct errors, as well as to review items of broad national significance. The Supreme Court may not review every lower court ruling against Trump with which it disagrees even if Trump seeks review. However, many of the President's actions may be of sufficient national significance to merit Supreme Court intervention

The sections that follow separate Trump actions into five categories:**Category A: legal or most likely legal****Category B: much more susceptible to substantive judicial challenges****Category C: the lawsuit against New York State and the "intergovernmental immunities" doctrine****Category D: constitutionality and other legal issues related to DOGE****Category E: constitutionality and other legal issues related to the Consumer Finance Protection Bureau**

¹ An analysis from Ad Verum Partners indicates that most large universities and hospital systems have indirect costs equal to 60%-70% of their direct costs. The Trump Administration has imposed a cap of 15% on these indirect costs effective February 10th

Category A: legal or most likely legal

These actions are most likely legal since they fall under: (i) generally accepted bounds of the President's inherent constitutional authority, or (ii) the broad discretion Congress confers upon the President.

- repealing Biden Executive Orders
- imposing increased duties on foreign imports, though the President's use of the International Emergency Economic Power Acts in this context will likely be scrutinized
- terminating federal employees who currently are not subject to federal civil service protections
- allowing states to use federal educational block grants for public school choice programs
- restructuring or eliminating agencies that were not created by federal statutes and whose independent existence is not otherwise statutorily required
- abolishing DEI offices, trainings and programs in federal agencies; and rescinding executive orders requiring affirmative action by federal contractors
- aggressively deporting undocumented aliens pursuant to standard statutory procedures (although specific tactics and programs will almost certainly be challenged and depending on execution, some deportation efforts could be struck down)
- temporarily suspending refugee admissions and temporarily barring admission to foreign nationals from countries with screening procedures determined to be insufficient from a national security perspective
- designating foreign drug cartels as foreign terrorist organizations, since foreign affairs is traditionally an area of deference to the Executive Branch
- pausing implementation of gov't programs (such as renewable energy subsidies) to develop new priorities, as long as funds are spent within the broad boundaries of the related congressional appropriation
- withdrawing from organizations such as the WHO, particularly in the absence of Congressional legislation
- appointing a Census Bureau head that would design a form that counts both people and citizens for purposes of the 2030 Census²
- actions to date regarding the Consumer Finance Protection Bureau standstill order (see Category E)

To be clear, while we categorized these actions as "legal or mostly likely legal", many will be challenged in the courts anyway.

Something to keep in mind: due to sweeping delegations of power to the executive branch under what are sometimes vaguely worded laws, the President has always had an arsenal of tools available, many of which have been used by previous Presidents of both parties only to limited extents or for discrete purposes. The rapid, simultaneous and collectively unprecedented deployment of the tools above does not constitute an a priori constitutional crisis, unless the Administration ignores judicial rulings against it.

² **If congressional or state legislative districts were based on citizenship rather than total population**, the composition and existence of several districts at federal and state levels could change, generally increasing the number of GOP Representatives and legislators. While apportionment of the House's 435 Representatives must be based on population according to the Constitution, judicial precedent appears to grant states flexibility on how districts are drawn **within** each state. So, to use an example: while total population would be used to allocate 17 Representatives to Pennsylvania, the state could use the number of citizens (rather than population) when determining the **shape** of these 17 districts. Focusing on citizens rather than total population would likely result in more of those 17 seats being allocated to GOP-leaning suburban and rural areas

Category B: much more susceptible to substantive judicial challenges

These actions would likely be subject to statutory or constitutional challenges by those with legal standing to do so³, and which courts may ultimately have to resolve. In some cases, the Trump Administration may petition the Supreme Court to clarify or overturn existing precedent and adopt an alternate interpretation of the Constitution. These may include:

- directing federal agencies to refuse to recognize birthright citizenship for US-born children of undocumented immigrants (and those lawfully present under work/student visas) under the 14th Amendment
- emergency actions to prevent undocumented aliens from remaining in the US on grounds that widespread illegal immigration from Mexico constitutes an invasion for purposes of Article IV of the Constitution
- designating a new classification of federal employees who will not have traditional civil service protections, well beyond the existing exemptions as applied by both parties under the Civil Service Reform Act of 1978
- refusing to spend appropriated funds or redirecting them to other unauthorized purposes
- unilaterally removing commissioners of independent agencies such as the NLRB/FTC/CSPC who statutorily are not subject to immediate removal at will on political grounds. Based on notifications that the Acting Solicitor General has just provided to Congress, **it is now clear that the Administration intends to challenge the canonical case underlying independent agency protections, *Humphrey's Executor (1935)***
- eliminating Federal agencies that have been created by statute (Dep't of Education, FEMA)
- economically coercive terms and conditions for cities to qualify for certain Federal funds (an example of which could be deprivation of highway funds unless sanctuary city policies were terminated)...
- ...or other attempts to force state/local law enforcement agencies to participate actively in the enforcement of federal immigration law
- abolishing USAID. While USAID was created by executive order in 1961, a Clinton era statute prevents the president from unilaterally abolishing it⁴. That said, the President has broad discretion about use of USAID funds as long as the Administration notifies Congress. As described earlier, Rubio's suspension of 96% of the USAID workforce is being challenged as an effective abolition of the agency

Category C: the US lawsuit against New York State and the "intergovernmental immunities" doctrine

- The Trump Administration is suing New York State due to the state's prohibition on state officials sharing DMV records with federal immigration officials, arguing that such actions are expressly preempted by a federal law which says that states cannot bar their officials from sharing information about citizenship or immigration status with federal authorities
- The "intergovernmental immunities" doctrine is a somewhat obscure corner of constitutional law. It appears that since 2000, there has been only one Supreme Court case concerning it. There were a few in the late 1980s and most seem to involve taxation. This is an unexpected salvo in Trump's battles against both undocumented immigration as well as Democratic states

³ To bring a constitutional challenge against one of Trump's actions, a plaintiff would have to establish **legal standing**. To do so, plaintiffs must show that the action caused a concrete and particularized injury (or that such an injury is imminent), and that a favorable court ruling would redress that harm. A court would not consider a case brought by a plaintiff who opposes Trump's actions on purely ideological grounds; nor would it consider "generalized grievances", which are alleged violations of the Constitution or law that equally affect all members of the public and do not harm a plaintiff in a particularized way.

One recurring dispute involves "organizational standing"; some public interest groups argue that Trump's actions affect their allocation of financial resources. Last year, the conservative majority on the Court reduced the scope of organizational standing, emphasizing that plaintiffs generally cannot bootstrap themselves into federal court based on their internal resource allocation decisions. In recent years, some states have pursued imaginative theories of state standing; the Supreme Court has accepted some while rejecting others.

⁴ "USAID under the Trump Administration", Congressional Research Service, Feb 3, 2025

Category D: constitutionality and other legal issues related to DOGE

- DOGE has been established to develop recommendations for large-scale governmental reform, including the proviso that “Agency Heads shall take all necessary steps... to ensure DOGE has full and prompt access to all unclassified agency records, software systems and IT systems”
- The executive order creating DOGE states that it is purely advisory, and that the four-person DOGE liaison team in each agency is comprised of agency personnel. Presidents have often turned to the private sector for advice about governmental issues, from Andrew Jackson’s “kitchen cabinet” to FDR’s “brain trust”, almost all of whom were in private life throughout at least the start of their advisory service
- Elon Musk has been designated a "special government employee", which is a federal employee outside of the traditional civil service system. As such, he is permitted to provide "temporary duties either on a full-time or intermittent basis" for no more than 130 days out of any period of 365 consecutive days. If he continues to work full-time only during the week, he can work until around the end of July. There are also conflict-of-interest restrictions that prevent him from working on matters that directly impact him or his companies in a way distinct from the general public, although waivers are potentially available
- Trump’s latest executive order⁵ instructs agency heads to prepare for large scale reductions in force, and to prioritize laying off people who perform functions that are not statutorily required (agencies related to law enforcement, military, immigration and public safety are exempted). An agency cannot fill vacancies unless the DOGE team lead for that agency decides the position should be filled, unless the agency head overrules them. This increases the power of DOGE personnel, although agency heads still retain ultimate authority
- Federal law generally limits administrative leave to 10 days per year; any broader strategic use of administrative leave for longer periods may not be in accordance with existing laws
- The Administration’s buyout offers to Federal employees raise legal questions due to both the length of the administrative leave they would entail, and since such fiscal commitments generally cannot be made without statutory authorization and might violate the appropriations clause and the Anti-Deficiency Act

Category E: constitutionality and other legal issues related to the Consumer Finance Protection Bureau

- **Short answer:** the CFPB reportedly has enough funds (~\$700mm) to operate for the upcoming quarter, and the acting CFPB head’s standstill order excludes functions the agency is required by law to perform. To date, I would assign actions related to the CFPB to Category [A] but this could change going forward
- **Details:** the CFPB is required by law to exist, although a recent Supreme Court case allows the President to remove its head for political reasons (*Seila Law vs CFPB*, 2020). The CFPB is funded by the Fed as directed by the CFPB, and then by Congressional appropriation if Fed transfers are insufficient. The CFPB Director generally has discretion as to how the agency performs its duties and exercises its prosecutorial discretion; and may also decide what issues to prioritize and, within certain bounds, the timing of the agency's actions (including a pause to reorient the agency to new priorities). The new CFPB director has reportedly directed employees to cease "all supervision and examination activity" unless such activity is "expressly approved by the Acting Director or required by law", and has also opted to spend down existing balances in the Consumer Financial Protection Fund to fund operations rather request additional funds at this time. Any balances in the separate Consumer Financial Civil Penalty Fund typically cannot be used to fund general CFPB operations

For anyone that has gotten this far, congratulations. This kind of thing isn’t for everyone, but I think it’s important to understand the details when there are assertions of a constitutional crisis, and given how critical rule of law is to US capital markets and to the US\$ as the world’s reserve currency. I deeply apologize to anyone internally or externally that has been asked to translate this Eye on the Market into other languages. This one is going to be a mess.

⁵ “Implementing the President’s Department of Government Efficiency Workforce Optimization Initiative”, Feb 11, 2025

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