



# 2018 U.S. Midterm Elections Briefing

November 2018

BRUNSWICK

# Five Pieces of Post-Midterm Advice for Executives

As we step-back from the 2018 U.S midterm election results, Brunswick's Washington office shares five key pieces of post-midterm advice for executives. This is meant to guide how executives can:

- Assess the impact of changing political dynamics on business;
- Frame their thinking to avoid reputational pitfalls in the midst of heightened change; and
- Distinguish their organization while navigating a politically divided era.

We also speak with Brunswick Senior Counselor Lanhee Chen and The Atlantic national correspondent and author James Fallows to share their perspective on the results of the midterms, the state of political life in America, and what this means for business-critical issues.

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**Know Your Reputational Exposure to Congressional Investigations**

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**Expect China to Remain a Contentious Foreign Policy and Trade Issue**

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**Develop Your Viewpoint on Hot-Button Issues**

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**Expect Legislative Paralysis with Few Opportunities for Compromise**

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**Look for Opportunities at the State and Local Level**



# Post-Midterm Top Five Takeaways

1

## Know Your Reputational Exposure to Congressional Investigations

House Democrats view their win as a mandate to use their investigatory powers to check the Trump administration. These oversight investigations will also extend to the private sector: companies should expect more scrutiny — especially those operating in the finance, health, energy, and technology sectors.

- Companies having previously sought policy changes from the administration could risk being seen as unduly benefitting from these policy changes are especially at-risk. House Democrats have signaled they intend to watchdog ethics issues they feel have been neglected during the Trump presidency.
- On mergers and acquisitions, Jerrold Nadler (D-NY)—who will become the next chair of the House Judiciary Committee in the 116th Congress—will be primed to use his oversight jurisdiction to increase scrutiny of proposed transactions and slow the administration's attempts to approve them at a faster rate.
- The technology sector should expect significantly more inquiry into its internal guidelines surrounding data privacy and their ability to counter the spread of disinformation on their platforms.

**Now is the time to establish a narrative that: defends your policies, and if necessary, describes changes to internal procedures that address potentially sensitive concerns. Executives may also need to sharpen their litigation communications functions and conduct reputational benchmarking to better understand their position in the eyes of the public.**

2

## Expect China to Remain a Contentious Foreign Policy and Trade Issue

Bipartisan support will continue to look at actions that boost U.S. competitiveness against China. While the new Congress will likely have a say over the final United States Mexico Canada Trade Agreement (USMCA), there is little it can do to settle the battle over tariffs with China. The President has robust authority to impose tariffs.

- Chinese Foreign Direct Investment (FDI) in U.S. assets involving semiconductors, AI, and 5G technology will continue to face headwinds under CFIUS and Congressional authority. In addition, companies that manufacture technology in China could face questions on supply chain security.
- Expect bipartisan support for free-enterprise diplomacy efforts in the same vein as the recently passed BUILD Act, which gives the newly created U.S. International Development Finance Corporation (DFC) an equity stake in the loans the government provides to businesses that expand into developing markets. The shift toward private-sector development could ultimately provide businesses new avenues for expansion while supporting the administration's effort to counter Chinese government funding of infrastructure projects in African and South Asian countries.
- The electoral fallout from the escalating U.S.-China trade dispute, including retaliatory tariffs by China, is still undetermined. Some outcomes suggest low agricultural exports due to tariffs helped Democrats in some regions gain further seats. However, in other races, communities that benefit from the tariffs, including the steel industry, stayed with Republicans and the President.

**Expect challenges of doing business with China to remain the same amidst trade uncertainties. Companies feeling the effects of tariffs should expect public scrutiny from the White House and lawmakers from both parties. How industries and consumers respond to the effects of tariffs (loss in revenue, change in supply chain operations, or a rise in prices of consumer goods) may determine who benefits over the long term.**

## 3

## Develop Your Viewpoint on Hot-Button Issues

The election results further underscore the deep political divisions in the U.S., which will only increase the chances that companies could find themselves caught in between political factions on controversial issues.

- Corporations conducting business with countries who have had prior issues in the treatment of their citizens should expect to have these partnerships called into question. A perceived lack of attention from the administration to these issues increases the pressure on multinational corporations to take a position normally reserved for nation-state diplomacy.
- President Trump and his opponents will undoubtedly spar over contentious political topics such as gender equality, diversity, and workplace conduct issues. These fights will keep pressure on executives—coming from customers and employees—to take a position and take action.
- Employees will also seek to hold executives accountable to address controversial company policies as seen recently with employee protests at major tech companies demanding an end to forced arbitration to settle sexual harassment cases.

**Executives should have effective issues management functions to detect, carefully consider, and respond to matters important to their employees, stakeholders, and customers. To engage on issues, it's critical to have a developed viewpoint that can withstand scrutiny and allow for consistent employee engagement and external narratives, and the fortitude to stay the course.**

## 4

## Expect Legislative Paralysis with Few Opportunities for Compromise

The private sector should expect little meaningful legislation to be passed as both parties' posture for incremental political "wins" leading up to the 2020 presidential election. Difficulties compromising on issues concerning the budget, debt ceiling, health care and taxes will result in continued regulatory uncertainty, but there is hope for deals on infrastructure and drug pricing.

- Infrastructure presents an ideal opportunity for bipartisan legislation as the current funding authorization for the Federal Highway Bill is set to expire at the end of FY2020. It also remains an outstanding campaign promise both President Trump and House Democrats are looking to deliver to voters. However, cemented ideologies and hot-button issues, such as funding for President Trump's border wall, could easily delay any deal.
- Public demands to control drug pricing and stop the opioid crisis present opportunities for both chambers to put forth competing plans or support existing ideas from the FDA, including approving new opioids in the context of what's already on the market. In either case, the pharmaceutical industry will likely face inquiries and hearings ahead of impending regulatory actions as both the Democratic and Republican bases seek results.

**Executives seeking compromise should remain engaged in an ongoing dialogue with stakeholders to assess the situation and see where opportunities might surface.**

## 5

## Look for Consensus Opportunities at the State and Local Level

Midterm outcomes suggest voters are increasingly looking to local and state government to solve problems—not the federal government. This means that unlike national-level politics, local policymakers and voters are not as constrained by partisan ideologies and are more open to new ideas.

- Voters support infrastructure, even if this meant raising or maintaining taxes. Five of the ten largest local ballot measures on transportation passed on election day representing over \$26 billion in new funding according to the Eno Center for Transportation. Several of these measures included higher taxes to fund the projects, or in the case of California, voters rejected an effort to repeal a fuel tax increase.
- Voters from some conservative states passed traditionally liberal measures including wage increases in Arkansas and Medicaid expansion in Idaho, Nebraska, and Utah despite opposition from Republican lawmakers. Topics like criminal justice reform are gaining mainstream consensus. Most notably, Florida voters passed an amendment to restore voting rights to over one-million previously convicted persons by an almost two-thirds majority.
- At the state level, the midterms showed voters are still wary of environmental measures to limit drilling, mandate renewable energy growth, and tax carbon emissions. Such efforts were rejected in Colorado, Arizona, and in Washington state which attempted to impose a fee on carbon emitting companies. In lieu of federal environmental legislation, the regulatory debate will likely remain at the state and local level.

**Public-private partnerships at state and local levels are more important than ever. Regional engagement done right enables consistent messaging and an open-dialogue. Do not underestimate participating in well-designed municipal initiatives as they can set the tone for national discussions.**



“Divided control of the Congress means continued legislative paralysis, as Democrats use the House to investigate the Trump Administration and pursue their own policy goals, while Republicans use control of the Senate to confirm President Trump’s nominees and pursue a conservative policy agenda. This shines an even brighter light on the ways in which President Trump and the Republicans will use executive action and the administrative state to accomplish their goals. Thus, business leaders should pay close attention to what federal agencies and the White House will do in 2019 and beyond, as they seek to advance the President’s agenda ahead of his likely re-election bid.”

**- Lanhee Chen,**  
*Brunswick Senior Counselor  
 Director of Domestic Policy Studies  
 and Lecturer in the Public Policy  
 Program at Stanford*

# Interview with James Fallows

**Brunswick:** You and your wife Deborah wrote a book about your travel across America's small towns between 2012 and 2017. What did you learn about the state of America and its citizens on your travels?

**James Fallows (JF):** What we saw, through these years on the road, differs from what most people read, see and hear in the news, in two distinct ways.

The first is the sharp difference between the way national-level politics is discussed around the country versus the way other aspects of civic, cultural, and economic life are engaged. National politics seem to be as starkly polarized as cable-talk shows and national headlines would indicate. But – and this is the aspect often left out of mainstream reports – in realms other than national politics, contemporary America appears surprisingly functional. Cities still have a wide range of problems, but both polling information and anecdotal takeaways suggest that in most localities, many people feel as if they are moving in the right rather than the wrong direction.

The second discovery was the degree of experimentation, practicality, evidence-based adjustment, trans-partisan compromise, "public private partnerships," openness to people of different backgrounds and views, and other aspects of healthy civic life. The problems of contemporary America are real. What's less recognized is the breadth, variety, and momentum of offsetting efforts and renewal and reinvention.

**Brunswick:** From talking to Americans from all walks of life what did you learn about their expectations for corporate social responsibility? How can corporations and institutions successfully navigate America's politically polarized landscape?

**JF:** We saw an appreciation for companies that were willing to think of their "triple bottom line." For example: in upstate South Carolina, where manufacturers like GE, BMW, and Michelin have set up factories, engineers, staffers, and executives from those factories play a visible role in supporting local public school – including taking personal time to teach classes to students. Many cities are proud to show off "public-private partnerships" with either the local branches of big corporations, or (ideally) the headquarters of those organizations. The positive effects of corporate social responsibility seem to show up most clearly in tangible, locally visible ways. The negative effects are felt at a distance: a decision that appears to be made far away --in New York, in Seattle, in San Francisco, in DC -- that has ripple effects locally, of putting people out of work. One theme in our writing is that the US is in many ways in the middle of a "Second Gilded Age," with many of the problems of the original late-19th-century era such as financial concentration, which ultimately led to "trust-busters" and anti-monopoly legislation. I think there is a broad sense across the country, even if people don't yet express it in these terms, that the US is in a similar era, and that some offsetting movement of anti-trust or limiting-monopolies lies ahead.

**Brunswick:** You have been a close observer of societies experiencing reinvention, such as when you moved to China in 2006 to witness its continued emergence. What would you say to international observers seeking to understand the changes America is going through now?

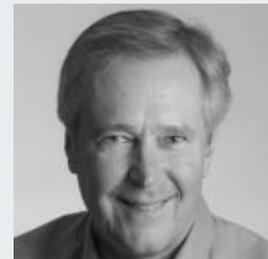
**JF:** I've learned the U.S. undergoes virtually constant disruption. In any decade you can find some new wave of technology changing people's livelihoods, or some new political or

international trend upsetting established ways of life.

But to counter this, every decade of American life has included adjustment, adaptation, experimentation, and the uneven-but-visible progress toward a more open and inclusive society.

In summary, I would encourage outsiders to recognize the dire situation of national-level governance in the U.S. right now; and to observe the strains and tensions within the society; but also to always bear in mind that the U.S. has proven better able than most other societies to absorb and respond to these strains.

## James Fallows



James Fallows is a national correspondent for *The Atlantic* and has written for the magazine since the late 1970s. During his more than 35 years with the magazine he's had the opportunity to report extensively from outside the U.S. and has lived in Tokyo, Kuala Lumpur, Sydney, Shanghai, and Beijing. Previously, he has served as chief White House speechwriter for Jimmy Carter and as an editor for U.S. News & World Report.

Between 2013 and 2017, he and his wife, Deborah Fallows, travelled across the U.S. for their American Futures project, which led them to write the New York Times bestseller, *Our Towns: A 100,000-Mile Journey Into the Heart of America*. Their story is the basis of a forthcoming HBO documentary.

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### **For more information, contact our Washington, D.C. office**



**George Little**

Office Head, Washington, D.C.

**Address:**

600 Massachusetts Avenue NW, Suite 350  
Washington, D.C. 20001

**Tel:**

+1 202 393 7337

**Email:**

WashingtonDC@BrunswickGroup.com