Debevoise & Plimpton

2024 Election: Potential Implications for the Financial Services Industry

December 27, 2024

Key Takeaways

- Although financial services were not a focus of the campaign, the Trump administration will almost certainly have a significant impact on the status quo.
- In particular, Trump will replace many key personnel. In the regulatory sphere it is often the case that *personnel is policy*.
- Republican control of Congress will enhance Trump's ability to implement his policy priorities.
- Trump's regulatory policy tools to implement his agenda could include Executive Orders, revisiting or declining Biden rule proposals, overturning rules via the CRA, and pausing enforcement of regulations.
- Ramifications for banking organizations may include less stringent capital and liquidity requirements, changes in SEC regulatory and enforcement priorities, shifts in crypto regulation, limits to outbound investments, and continued enforcement for cross-border activities such as AML and sanctions compliance.

I. RAMIFICATIONS OF FULL REPUBLICAN CONTROL

Trump’s Agenda with a GOP-Controlled Congress

Trump’s ability to pursue his agenda will be strengthened by Republican control of both the Senate and House. With Republicans taking the Senate, he will be more likely to get his preferred personnel choices confirmed. Control of both bodies will enhance Republicans’ ability to advance legislation, such as for crypto, and opens the door to reverse recent regulations under the Congressional Review Act. Changes in personnel will change the direction of the agencies where they serve.

REPUBLICAN CONTROL	EXECUTIVE ORDERS	SENATE-CONFIRMED PERSONNEL	LEGISLATION	CRA LOOKBACK (tentatively as of August 1)
WHITE HOUSE **HOUSE** **SENATE**	✓	Trump will get personnel choices and judicial picks more aligned with his views through the Senate.	Trump’s preferred legislation, as on crypto, more likely to be advanced and would not need broad bipartisan support.	✓ *Certain late term Biden rules can be reversed.*

Source: New York Times

Ability to Remove and Replace Personnel

- In the regulatory space, it is often the case that personnel is policy.
- Trump will replace the Secretary of the Treasury, the Acting Comptroller of the Currency (**OCC**), withdraw the nomination of Christy Goldsmith Romero (if not confirmed) and nominate someone as chair of the **FDIC**, and replace the chair of the **CFTC** and director of the **CFPB**.
  - Under Trump's administration, a new Republican CFPB Director or Comptroller would alone change the FDIC composition to a 3-2 Republican majority.
  - Any issues with removal of FDIC Chair Gruenberg and **SEC** Chair Gary Gensler have been resolved by their announced resignations effective before Trump's term begins.
- Trump has suggested that he would let **FRB** Chairman Jerome Powell finish his term ending in May 2026.
  - Chairman Powell, Vice Chair for Supervision Michael Barr and Governor Adriana Kugler all have terms expiring in 2026. Vice Chair Philip Jefferson's expires in 2027.
  - Governors Waller, Bowman and Cook have terms expiring in 2030 or later.
  - Both Chairman Powell and Vice Chair for Supervision Barr have stated that they intend to serve out their remaining terms.

> "I would let [Powell] serve it out, especially if I thought he was doing the right thing."
> *–Trump on re-appointing FRB Chairman Powell.*

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Sources: Reuters, Brookings, ABA, Morningstar, Bloomberg, Federal Register

Key Agencies

Each of the key agencies is shaped by unique leadership structures, appointment terms and removal conditions. While awaiting nomination/Senate confirmation, an acting official may serve, but acting officials are subject to specific requirements and their actions can be susceptible to legal challenge.

Treasury

- **The Treasury Department** is an executive agency.
- It is led by the Secretary of the Treasury, who is appointed by the President and confirmed by the Senate, with no specific term limit.
- The Secretary is removable at the President's discretion.

Scott Bessent

DOJ

- **The DOJ** is an executive agency.
- It is led by the Attorney General (AG), Deputy AG, and Associate AG, who are appointed by the President and confirmed by the Senate without a fixed term. They can be removed at the President's discretion.

Pam Bondi

SEC

- **The SEC** is an independent agency.
- It is led by a Chair, who is appointed by the President from sitting Commissioners.
- There are five Commissioners appointed by the President and confirmed by the Senate, who serve staggered five-year terms. No more than three at a time can be from the same party. Commissioners are generally understood to only be removable "for cause."

Paul Atkins

FTC

- **The FTC** is an independent agency.
- There are five Commissioners, nominated by the President and confirmed by the Senate, each serving a seven-year term. No more than three Commissioners can be of the same political party. The President chooses one Commissioner to act as Chair.
- Commissioners can only be removed "for cause."

Andrew Ferguson

Key Agencies (cont'd)

CFTC

- **The CFTC** is an independent agency.
- There are five Commissioners appointed by the President and confirmed by the Senate, who serve staggered five-year terms. No more than three at a time can be from the same party.
- Commissioners are generally understood to only be removable "for cause."
- The Chair is appointed by the President from sitting Commissioners.

CFPB

- **The CFPB** is an independent bureau within the Federal Reserve System.
- It is headed by a sole director appointed by the President, and confirmed by the Senate, to a five-year term.
- The CFPB director can be removed at the President's discretion.

FDIC

- .**The FDIC** is an independent agency.
- Five board members: the Comptroller, the CFPB Director and three appointed by the President and Senate-confirmed for a six-year term. No more than three can be of the same party.
- FDIC board members can be removed "for cause"

FRB

- **The Federal Reserve** is an independent agency.
- There are seven members of the board, nominated by the President and confirmed by the Senate to 14-year terms.
- Governors of the board can only be removed "for cause."

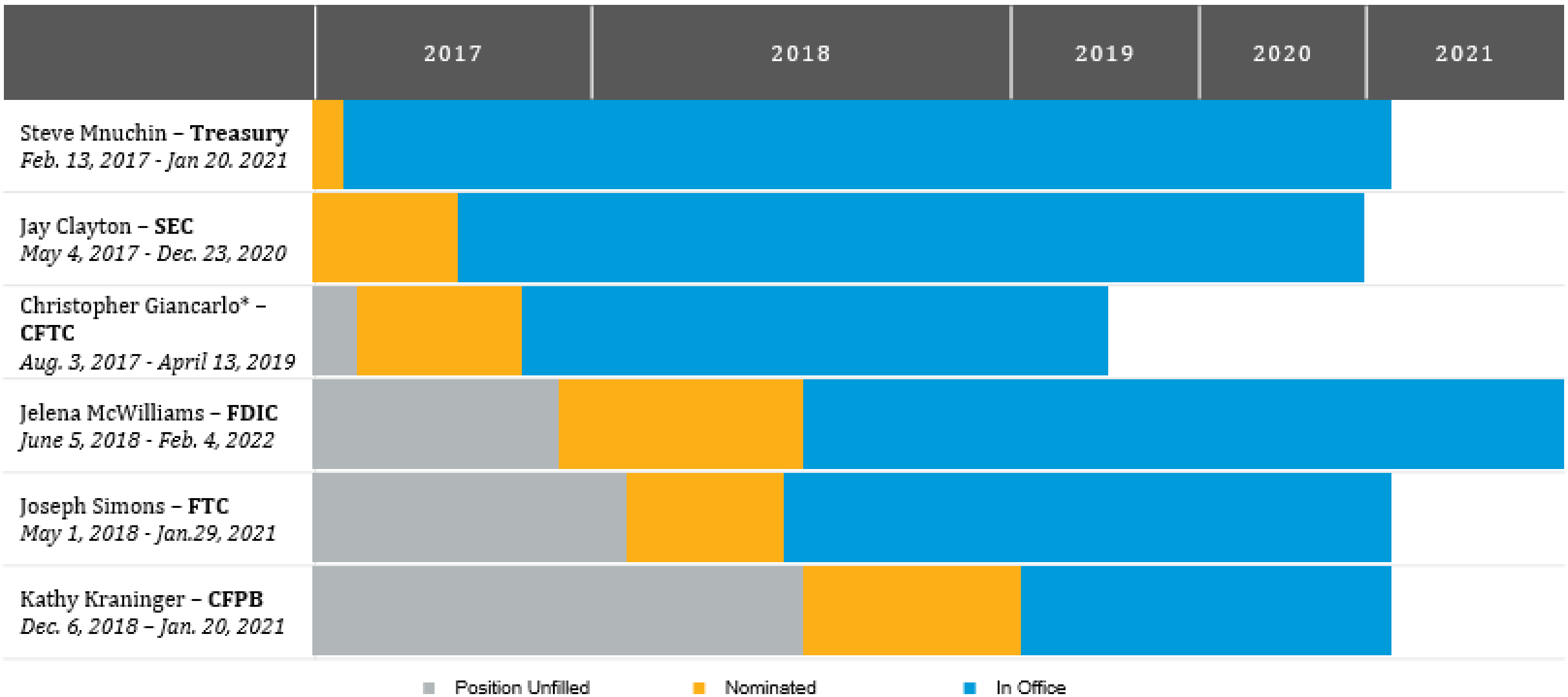
OCC

- **The OCC** is an independent bureau of the Treasury Department.
- It is led by the Comptroller of the Currency, who is appointed by the President and confirmed by the Senate (five-year term).
- Acting Comptroller Hsu could be removed at the President's discretion.

Use of Federal Vacancy Act Authority on Interim Basis

- Under the Federal Vacancies Reform Act of 1998, typically the first assistant to a position becomes the acting officer, but the President may direct a senior official of the agency or a person serving in any other advice-and-consent position (meaning, Senate-confirmed appointees from anywhere in the executive branch) to serve as the acting officer.

Speed of Trump's 2016 Head of Agency Nominations



*Christopher Giancarlo served as Acting Chairman from Jan. 1, 2017 until his official confirmation in August 2017.

Sources: CBS, CRS Report, Treasury, SEC, CFTC, FDIC, FTC, Bloomberg

Potential Trump Picks

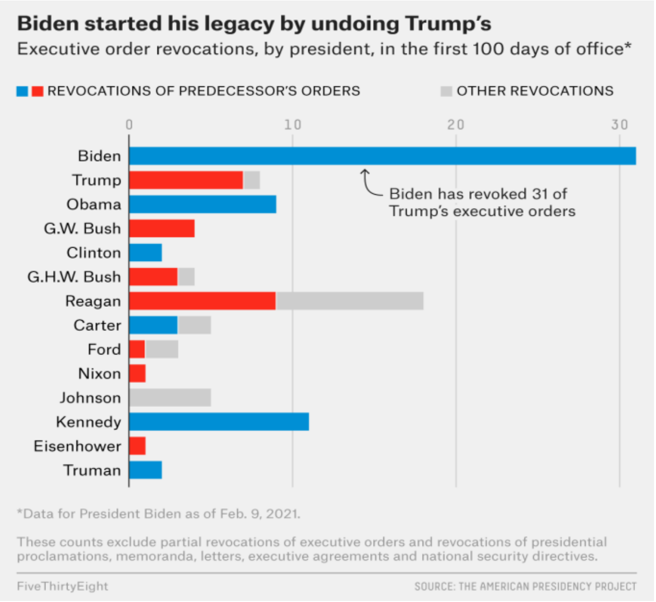
Name	Snapshot of Relevant Experience	Agency
Kevin Warsh	Former FRB Governor	Federal Reserve
James Bullard	Former CEO and President of FRB of St. Louis	Federal Reserve
Chris Waller	Current FRB Governor	Federal Reserve
Michelle Bowman	Current FRB Governor	Federal Reserve
Lawrence Lindsey	Former Deputy Director of the National Economic Council under Bush Administration	Federal Reserve
Travis Hill	Current FDIC Vice Chair	FDIC or OCC
Jonathan McKernan	Current FDIC Director	OCC, FDIC, or FHFA
Keith Noreika	Lawyer at Patomak Global Partners and Former Acting Comptroller	OCC or FDIC
Brian Johnson	Former Deputy Director of the CFPB	CFPB
Brian Quintenz	Head of Policy for Andreessen Horowitz's Crypto Fund and Former CFTC Commissioner	CFTC
Perianne Boring	Founder and CEO of The Digital Chamber	CFTC
Caroline Pham	Current CFTC Commissioner	CFTC
Summer Mersinger	Current CFTC Commissioner	CFTC
Marco Santori	Chief Legal Officer of Kraken	CFTC
Neal Kumar	Partner at Willkie Farr & Gallagher	CFTC
Joshua Sterling	Partner at Milbank	CFTC
Jill Sommers	Former CFTC Commissioner	CFTC

Sources: Politico, Capital Alpha Partners, WSJ, Reuters, Capitol Account, Politico, Semafor, New York Post, Reuters, Financial Times , New York Times, Coindesk, Reuters.

Regulatory Policy Tools Available to the New Administration

EXECUTIVE ORDERS

- Any incumbent President can revoke or modify an executive order.
  - In 2021, the Biden administration revoked a number of Trump Executive Orders, including Trump's Executive Order on Core Principles for Regulating the United States Financial System. Similarly, in 2017 Trump revoked a number of Obama Executive Orders.
  - Trump may revoke Biden Executive Orders such as his Executive Orders Promoting Competition in the American Economy (July 2021), Climate-Related Financial Risk (May 2021) and Safe, Secure, and Trustworthy Artificial Intelligence (Oct. 2023)



AGENCY RULEMAKING

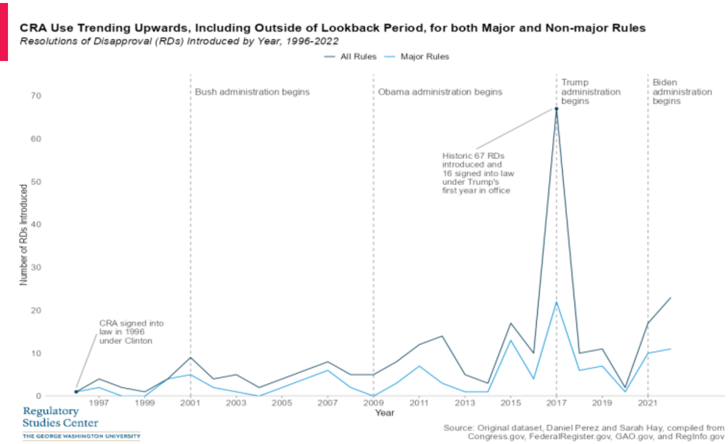
- Agencies can amend or replace existing rules, and introduce new rules, through notice and comment rulemaking, but the process is time-consuming and resource-intensive.
- The Supreme Court's decision earlier this year to overturn *Chevron* agency deference in *Loper Bright Enterprises v. Raimondo* will allow courts greater latitude in rejecting agency interpretations of statutes.
- Following *Loper Bright*, we expect the Trump administration to be affected by greater judicial scrutiny of rules extending beyond express statutory authority. This also potentially could impair the ability of agencies to revise or rescind existing regulations without a strong basis to do so.
- Agency actions will also be subject to review and potentially constrained under the major questions doctrine, with the Court holding in *West Virginia v. EPA* (2022) that an administrative agency has no power to make decisions on issues of "vast economic and political significance" without explicit statutory authority.
- The Trump administration is also likely to revisit, or decline to finalize, many outstanding Biden administration rule proposals.

Source: FiveThirtyEight, American Presidency Project, CRS Report

Regulatory Policy Tools Available to the New Administration (cont'd)

CONGRESSIONAL REVIEW ACT (CRA)

- Congress can use the CRA to overturn federal agency rules, and certain statements of policy and guidance, during a limited "lookback period" in which the next Congress can review agency actions that occurred during the prior Congress.
- A CRA action must be passed by both chambers of Congress and can be vetoed by the President. With Republican control of both chambers, the CRA may be used to overturn some of Biden's rules.



- The CRA is a blunt tool that also limits promulgation of similar rules in the future. Since its enactment, the CRA has been used to overturn a total of 20 rules.
- The Congressional Research Services estimates that any Biden administration rules submitted on or after August 1, 2024 would likely be subject to the CRA lookback provision and could potentially be overturned by a Republican Congress.

OTHER POSSIBILITIES

- For Biden-era final rules that are outside of the CRA lookback period, such as the CFPB's credit card late fee caps and the SEC's quantitative dealer rule, the Trump administration may opt not to defend them in court, would could effectively eliminate them.
- A recent WSJ op-ed by Elon Musk and Vivek Ramaswamy suggested that President Trump could, by executive action, pause enforcement of regulations that he determines exceed congressionally delegated rulemaking authority and initiate a process for review and rescission.

Source: FiveThirtyEight, American Presidency Project, CRS Report, WSJ

Potential Shifts in Biden's Regulatory Agenda Under Trump

Select Biden-Administration Final Rules and Guidance Potentially Subject to CRA Repeal

Through the CRA, Congress could repeal significant recently finalized rules, including rules and guidance on bank mergers, CRPB open banking rules and anti-money laundering rules.

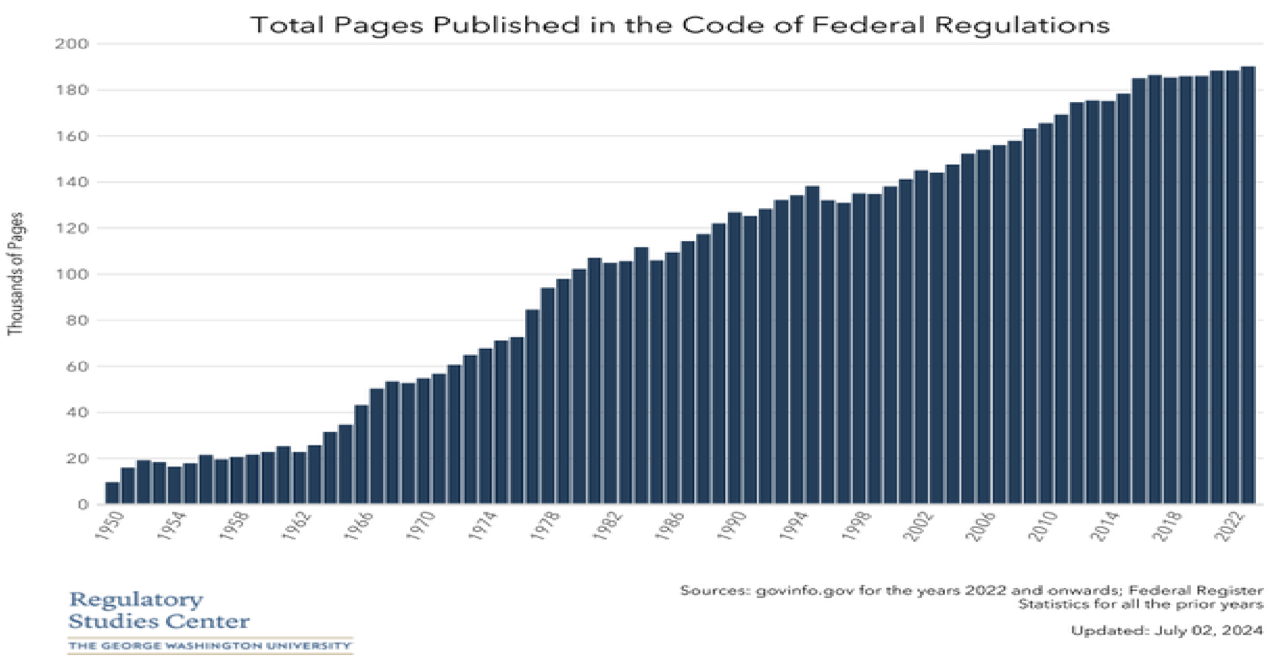
- Covered Clearing Agency Resilience and Recovery and Wind-Down Plans (October 25, 2024) (Agency: SEC)
- Premerger Notification: Reporting and Waiting Period Requirements (November 12, 2024) (Agency: FTC)
- OCC Guidelines Establishing Standards for Recovery Planning by Certain Large Insured National Banks, Insured Federal Savings Associations, and Insured Federal Branches (October 22, 2024) (Agency: OCC & Treasury)
- Required Rulemaking on Personal Financial Data Rights (October 22, 2024) (Agency: CFPB)
- Regulation NMS: Minimum Pricing Increments, Access Fees, and Transparency of Better Priced Orders (October 8, 2024) (Agency: SEC)
- Final Statement on Policy on Bank Merger Transactions (dissent: FDIC Vice Chair Travis Hill and Director Jonathan McKernan opposed the statement.) (September 27, 2024) (Agency: FDIC)
- Business Combinations Under the Bank Merger Act (September 25, 2024) (Agency: OCC & Treasury)
- AML/CFT Program & Suspicious Activity Report Filing Requirements for Registered Investment Advisers and Exempt Reporting Advisers (September 4, 2024) (Agency: FinCEN)
- AML Regulations for Residential Real Estate Transfers (August 29, 2024) (Agency: FinCEN)

Select Biden-Administration Proposed Rules

The Trump administration is likely to revisit, or decline to finalize, many outstanding Biden administration rule proposals. The heads of the OCC, FRB and FDIC (but not the CFPB) have stated that no material rules will be finalized before the Trump administration takes office.

- Basel III Endgame (Agency: OCC, FRB, FDIC) (dissent: FRB Governor Michelle Bowman statement, FDIC Vice Chair Travis Hill statement, FRB Gov. Christopher Waller statement) (Congressional dissent: Con. Tim Scott (R) statement, Con. Luetkemeyer (R) statement, 39 Republican Senators called on Biden to withdraw)
- Federal Reserve Regulation II (Debt Interchange Fees and Routing) (dissent: Bowman statement)
- FDIC Notice of Proposed Rulemaking on Brokered Deposits (dissent: Hill statement, McKernan statement)
- Long-term Debt Requirements for Large BHCs, IHCs and IDIs (Agency: OCC, FRB, FDIC)

II. PRACTICAL IMPLICATIONS AND KEY RISKS



Trump Administration Regulatory Focus

Trump's platform includes a deregulatory focus. Public reporting also suggests that Trump may be aligned with Republicans on other issues, such as:

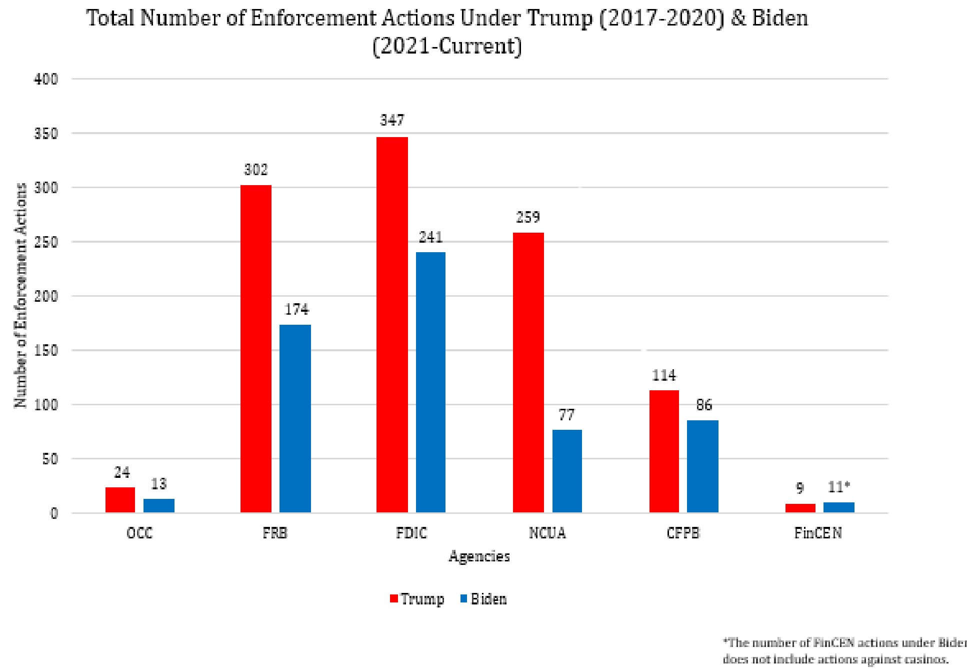
Bank Capital	The Basel III Endgame proposal would potentially not move ahead, at least in its current form, according to reports.
Crypto	Trump stated that he has "a plan to ensure the United States will be the crypto capital of the planet and the Bitcoin superpower of the world." He also said, "If crypto is going to define the future I want it to be mined, minted and made in the U.S.A." Reports suggest that he may empower the CFTC to regulate larger parts of the crypto markets.
Anti-ESG	Trump is opposed to a number of environmental initiatives. For example, he has said: "My plan will be to terminate the Green New Deal, which I call the Green New Scam, and rescind all unspent funds under the misnamed Inflation Reduction Act." He would likely be opposed to ESG efforts.
Non-banks	According to reporting, Trump would likely not seek regulation of non-banks, other than pushback based on ESG concerns.
Artificial Intelligence (AI)	The Trump Campaign Platform states, "[w]e will repeal Joe Biden's dangerous Executive Order that hinders AI Innovation and imposes Radical Leftwing ideas on the development of this technology. In its place, Republicans support AI Development rooted in Free Speech and Human Flourishing." The House Financial Services Committee recently introduced bipartisan bills acknowledging the importance of AI in financial services and requiring federal regulators to study its use.
Interest Rates	When asked about setting interest rates, Trump stated, "I feel that the President should have at least [a] say in there, yeah. I feel that strongly."
Mergers & Acquisitions	Trump appointees may take a less restrictive approach to mergers. The recent FDIC and OCC merger guidelines may be rescinded, altered, or at least interpreted more favorably to M&A.

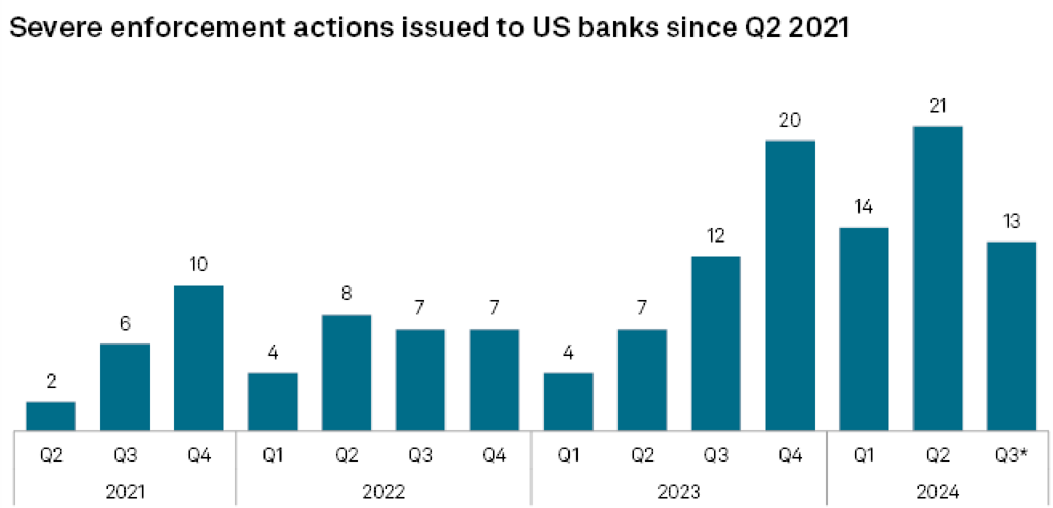
Trump announced that David Sacks, venture capital investor and former COO of Paypal, will serve as his AI and Crypto Czar and head the Council of Advisors for Science and Technology

Sources: WSJ, Reuters, Trump, WSJ, , Financial Services Committee

Enforcement

- The Trump administration is expected to continue to enforce cross-border related activities such as anti-money laundering laws and sanctions compliance.
- For example, there is uniformity of view within both parties on the need for enhanced enforcement around both inbound and outbound Chinese investment activities.
- Enforcement orders (across all bank sizes) under Trump were comparable or higher than Biden.
- Biden ramped up significant orders as to larger banks after the 2023 financial crisis.
- In the past, state regulatory and enforcement authorities have increased supervisory and enforcement activities during periods of perceived federal pull back, and a similar pattern may emerge in reaction to the new Trump administration.





Data compiled Sept. 19, 2024.

Analysis limited to severe enforcement actions issued to US commercial banks, savings banks, and savings and loan associations from April 1, 2021, to Sept. 19, 2024. Excludes severe enforcement actions issued to bank holding companies, thrift holding companies, credit unions, nondepository trusts and companies with a foreign banking organization charter.

Severe enforcement actions include prompt corrective action directives, cease and desist orders, consent orders and formal agreements that were issued and made public by federal regulatory agencies between April 1, 2021, and Sept. 19, 2024, including those severe enforcement actions that were later terminated.

* Quarter to date through Sept. 19, 2024.

Source: S&P Global Market Intelligence.

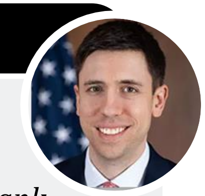
Sources: Reuters, CFR, DonaldJTrump

Mergers & Acquisitions

- Trump could potentially appoint more regulators that take a less restrictive approach to bank M&A.
  - If he desired to do so, Trump could revoke on Day One Biden's Executive Order unfavorable to mergers.
  - With Republican control of Congress, Trump could put in leadership at the OCC and CFPB, and thereby at least affect the FDIC board, in a manner favorable to M&A.
  - Trump is also trying to reshape the leadership of the DOJ.
  - Such changes may lead to recent FDIC and OCC merger guidelines being rescinded, altered, or at least interpreted more favorably to M&A.

- Even during the finalization of the FDIC's M&A guidance in September 2024, FDIC Vice Chairman Hill (R) voiced opposition to this approach, possibly presaging a Republican viewpoint in a Trump administration.

Travis Hill, FDIC Vice Chairman



I voted against the [Statement of Policy on bank merger transactions], arguing that it "move[d] in the wrong direction, potentially making the process longer, more difficult, and less predictable." Today, the FDIC Board is considering finalizing that proposal. While the final SOP makes a few small improvements over the proposal, I will vote against it for largely the same reasons."

- However, JD Vance has said "[we're] done…catering to Wall Street" and has praised Lina Khan's work at the FTC.

Sources: Washington Post, Politico, T. Rowe Price, White House.

Capital and Liquidity Policies

Trump's victory and expected shifts in regulatory leadership will delay Biden-era capital rules for large banks, and will likely result in less stringent requirements.

BASEL III ENDGAME

- FRB Vice Chair Barr has committed to a reproposal, and any reproposal would need to be endorsed by the OCC and FDIC. It is unlikely that the Republican-led OCC and FDIC would approve Barr's current framework. While regulators could release a reproposal in 2025, finalization is unlikely before 2026.

LONG-TERM DEBT (LTD)

- The Agencies' current LTD proposal is also unlikely to be adopted in its current form. Incoming leaders of the OCC and FDIC will likely support relaxing the requirements if they decide to move forward with the rulemaking.

LIQUIDITY

- Vice Chair Barr has discussed several potential changes to the FRB's current liquidity framework, including:
  - Requiring that large banks maintain a minimum amount of readily available liquidity in the form of reserves or collateral pre-positioned at the discount window;
  - Restricting reliance on held-to-maturity assets in large banks' liquidity buffers; and
  - Reviewing the treatment of certain types of deposits in the current liquidity framework.
- Other Biden-administration officials, including Acting Comptroller Hsu, have discussed potentially revisiting liquidity regulations.
- It is unclear whether these changes, which have not yet been proposed as regulation, would be pursued under the Trump administration.

Sources: Thomson Reuters.

Capital Markets Regulation

Under Chairman Gensler, the SEC pursued an ambitious rulemaking and enforcement agenda, but suffered some significant legal setbacks. The SEC's priorities are likely to shift dramatically under the Trump administration, and many rulemaking initiatives may be abandoned or amended. FINRA's regulatory authority has also been questioned on Constitutional grounds in recent cases.

SELECT FINAL RULES LIKELY TO REMAIN IN PLACE

- Central Clearing of U.S. Treasury Transactions (finalized December 13, 2023)

SELECT PROPOSED RULES UNLIKELY TO BE FINALIZED

- Security-Based Swap Large Position Reporting (proposed December 15, 2021)
- Custody Rule Amendments (proposed February 15, 2023) (would expand scope of investment adviser client assets required to be kept with a qualified custodian and increase requirements for such custodians)
- Regulation ATS Expanded Exchange Definition (proposed January 26, 2022) (would expand scope of platforms required to register as exchanges or broker-dealers)
- Predictive Data Analytics (proposed July 26, 2023) (would regulate conflicts of interest arising from use of predictive data analytics)
- Mutual Fund Swing Pricing and Hard Close (proposed November 2, 2022)

SELECT RULES CHALLENGED IN COURT AND LIKELY TO BE VACATED

- Quantitative Dealer Rule (finalized February 6, 2024) (vacated ND Tex. Nov. 21, 2024)
- Climate Disclosure Rules (finalized March 6, 2024) (voluntarily stayed April 4, 2023)
- Consolidated Access Trail Funding Plan (finalized September 6, 2023) (lawsuit filed September 13, 2024)
- Department of Labor Fiduciary Rule (finalized April 23, 2024) (stayed ED Tex. July 25, 2024, ND Tex. July 26, 2024)
- NMS Amendments Regarding Tick Sizes and Access Fees (finalized September 18, 2024) (lawsuit filed October 30, 2024)
- Short Position Reporting and Securities Loan Reporting (finalized October 13, 2023) (lawsuit filed March 5, 2024)

Sources: US News, Bloomberg Law , JD Supra, U.S. Securities and Exchange Commission, Bloomberg, Vital Law

Outlook for Cryptocurrency

NEW OPPORTUNITIES AND REGULATORY LANDSCAPE

- Congress may proceed to pass legislation on a partisan or bipartisan basis establishing a framework for cryptocurrency. For example, the Financial Innovation and Technology for the 21st Century Act, or "FIT 21", which received bipartisan support when it passed the House earlier this year, could receive a vote in the Senate.
- Paul Atkins, Trump's announced nominee to replace SEC Chair Gensler, and David Sacks, Trump's pick for "AI and Crypto Czar", are expected to be more open to cryptocurrency and could create new opportunities for innovation.
  - For example, the SEC could relax rules that currently restrict most broker-dealers from providing crypto custody services, and revise accounting guidance that currently requires custodians to treat custodied crypto assets as balance sheet exposures.
- Reports suggest that the Trump administration favors empowering the CFTC to regulate larger parts of the crypto industry.
- The OCC and other federal banking regulators could also become more open to banks providing crypto-related services like custody and trading.
  - In the Trump administration, OCC Interpretive Letters 1170, 1172 and 1174 addressed whether banks may (1) provide crypto custody services, (2) hold dollar deposits serving as reserves backing stablecoin and (3) engage in and facilitate payment activities through technologies such as distributed ledgers and stablecoins. These letters remain valid, although the Biden administration introduced new supervisory hurdles in Interpretive Letter 1179.
- Importantly, regulation of crypto assets and crypto-related businesses under a new regime remains complex and progress may be less rapid than anticipated.

ENFORCEMENT OUTLOOK

- Overall, we expect the Trump administration, and the SEC in particular, to take a less aggressive enforcement approach to cryptocurrency businesses.
- For example, reports suggest the new administration may settle ongoing litigation against the main cryptocurrency exchanges on favorable terms.

Sources: Forbes, WSJ, US News, Wired, Seeking Alpha.

Potential Agenda Items for Incoming Chair Atkins

BACKGROUND

- Atkins has a long history working in the financial markets sector. He is the CEO and founder of the financial services consulting firm Patomak Global Partners.
- Atkins was appointed by President George W. Bush to serve as an SEC Commissioner from 2002-2008. Reportedly, during his term, he was viewed as the most conservative member of the SEC.
- Atkins made significant contributions to Trump's 2016 presidential transition and then served as a member of Trump's Strategic and Policy Forum during his first term – an advisory group of top business leaders, established to help "bring back jobs" to the U.S.

PUBLIC COMMENTS ON CRYPTO AND DEREGULATION

- At a 2009 Senate hearing, Atkins detailed his theories of regulation stating, "We must recognize that businesses ultimately are better than governments at business, because both can and do make mistakes…By removing risk management from firms and placing it in the hands of government, there is a danger that firms will become careless and take on additional risk, believing regulators are protecting them."
- As a member of the board of advisors for The Digital Chamber, and co-chair of the Token Alliance, Atkins has supported policy issues including:
  - Implementing well-defined disclosure standards to differentiate between securities and commodities in the digital assets space; and
  - Creating a clear regulatory pathway for the approval of crypto ETFs.
- Atkins has commented on exchanges such as FTX and Binance locating "mainly overseas" because "they cannot comply with the regulations as written by the [SEC] and still operate with these decentralized distributed ledger types of assets." He suggested that, "if the SEC were accommodating and would deal straightforwardly with these various firms…it would be a lot better to have things happen here in the United States rather than outside."
- Atkins has said that, in many ways, the current regulatory framework "impede[s] financial innovation", and believes the SEC should "accommodate activity that's not criminal and then enable markets to flourish."

Sources: CBS, Rollcall, YouTube, APNews, EY, Digital Chamber.

Trade and Sanctions Policy

- The Trump administration is expected to continue to enforce cross-border related activities such as anti-money laundering laws and sanctions compliance.
- For example, there is a uniform view across both parties on the need for enhanced enforcement around both inbound and outbound Chinese investment activities.
    - Specifically, on October 28, 2024, the Treasury published a final rule (the “Outbound Investment Rule”) establishing new regulatory controls on certain technology-related investments by U.S. persons in or related to the People’s Republic of China, Hong Kong and Macau. The Outbound Investment Rule will take effect on January 2, 2025.
- Congress is actively considering legislation that may further limit outbound investments focused on China, and on expanding export control authority to cover AI systems and other emerging technologies with national security implications.
    - Although the Trump Administration has suggested reducing regulatory oversight of AI, it is likely to favor continued implementation and expansion of these national security limits.

Sources: Thomson Reuters.

ESG Policies

There have been significant developments in the U.S. ESG landscape in recent years; the election outcome will likely significantly impact ESG-related legal, regulatory and policy frameworks.

- Trump administration could bring major climate policy shifts, such as withdrawal from the Paris Climate Accord, reduced commitment to the Inflation Reduction Act, and prioritization of carbon-based energy.
- The SEC climate disclosure rule is unlikely to be implemented, as are other ESG-related SEC proposed rulemakings (e.g., human capital management, ESG rule for registered investment activities).
- The supervisory focus on climate risk at the OCC and other federal banking regulators may shift under the Trump administration.
- State laws and regulations will continue to be important:
    - "Blue" states will continue to advance, and possibly accelerate, disclosure and other policy initiatives such as California's ESG disclosure laws and the NYDFS's climate-related financial and operational risk management guidelines.
    - Status of state-level "anti-ESG" laws is unclear given expected increased focus on anti-ESG efforts at the federal level. 2024 saw a decline in the number of anti-ESG bills passed by states, and several recent legal challenges to anti-ESG laws have been successful.
- The rest of the world continues to advance climate policies and disclosure regulations, including in Europe, the UK, Canda, Asia, etc.
- State-level (e.g., California) and foreign disclosure regulations (e.g., in Europe, Canada, Japan, Hong Kong), likely will mean many banking organizations will be required to disclose and will accordingly have to face conflicting mandates, regardless of change in SEC / U.S. federal posture.

Other Key Political Risks and Unknowns for 2025

- **Government Funding and the Debt-Ceiling:** Funding for major parts of the U.S. government currently expires on December 20, 2024, and under current law the federal debt ceiling will be reinstated on January 2, requiring Treasury to implement "extraordinary measures" to avoid a default.
- **Use of Impoundment Powers:** Trump has pledged to bring back presidential impoundment authority – an authority he tested in his first term. Impoundment occurs when a president withholds or delays the use of funds that have been approved by Congress for a specific purpose.
- **DOGE:** Musk and Ramaswamy have stated that they want to cut the federal budget by about 30% – $2 trillion – to reduce wasteful federal spending. Many questions remain about the effort, including the scope of Musk and Ramaswamy's authority and how they will cut spending.
- **Unconstitutionality of the Administrative State:** Advisers to the Trump administration, including Musk and Ramaswamy, have suggested the Trump administration will use Constitutional arguments to dismantle federal agencies and regulations based on recent Supreme Court decisions.

Sources: Thomson Reuters, CBS News,

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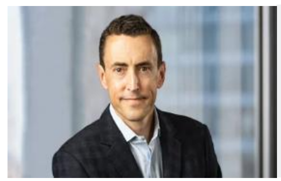

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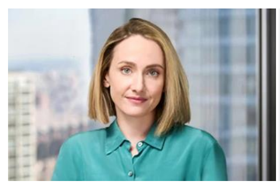

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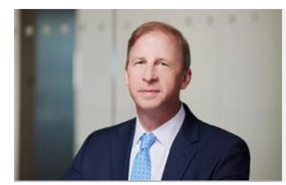

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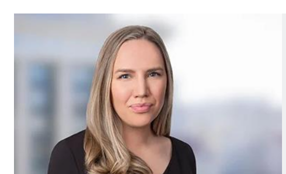

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