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More Obama Nominees in Jeopardy After Cordray Recess Appointment

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By Phil Mattingly

Jan. 4 (Bloomberg) -- President Barack Obama's nominees for key positions at the Federal Reserve, Federal Deposit Insurance Corp. and Comptroller of the Currency are at risk of becoming collateral damage in an escalating fight between Senate Democrats and Republicans.

Obama's decision to use a recess appointment to install the new director of the Consumer Financial Protection Bureau without formal Senate approval could imperil the nominations for other bank regulator jobs: Martin J. Gruenberg as head of the FDIC, Thomas Hoenig, the FDIC's nominee for vice-chairman and Thomas J. Curry, Obama's nominee to lead the OCC. All three were approved by the Senate Banking Committee with bipartisan support and have been awaiting final confirmation by the full chamber.

Also at stake are two nominations of Fed governors that Obama announced last month: Jerome H. Powell, a former Treasury Department official under President George H.W. Bush, and Jeremy Stein, a Harvard University economist who has advised the current administration.

Obama installed Richard Cordray, a former Ohio attorney general, as CFPB director although the Senate had not formally adjourned, angering Republicans who opposed creation of the bureau.

"Breaking from this precedent lands this appointee in uncertain legal territory, threatens the confirmation process and fundamentally endangers the Congress's role in providing a check on the excesses of the executive branch," Senate Minority Leader Mitch McConnell, a Kentucky Republican, said in a statement.

For President Obama's announcement in Ohio, see {NSN

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Dodd-Frank Implementation

U.S. bank regulators are in the process of implementing hundreds of rules required by the 2010 Dodd-Frank Act, which overhauled financial regulation. Large banks, including Goldman Sachs Group Inc., JPMorgan Chase & Co. and Bank of America Corp., have been lobbying regulators as they work on rules that include higher capital requirements and a ban on proprietary trading.

Most Republicans have opposed the consumer bureau since its inception. Earlier this year, opponents in the House and Senate proposed bills that would restructure the new agency's governance and funding or abolish it entirely. Cordray, who has been running the bureau's enforcement division, has been blocked as Republicans pushed for the changes.

The fate of those nominations has become cloudier in the aftermath of Obama's decision, said Mark Calabria, a former senior aide to Senator Richard Shelby, the top Republican on the Senate Banking panel.

'Shuts Down' Process

"You really do run the risk that this shuts down the nominations process altogether," Calabria, now director of financial regulation studies at the Cato Institute, said in a phone interview.

While the banking nominees have bipartisan support and will likely move as a package on the Senate floor, "we're in uncharted waters at this point," he said.

Senate Majority Leader Harry Reid, a Nevada Democrat, said he supported the move and Senate Banking Committee Chairman Tim Johnson, a South Dakota Democrat, said he expected Cordray would move forward "on implementing long-overdue consumer financial protections."

Obama administration officials said the president made the appointment because Republicans refused to let the Senate hold a simple majority vote on the nomination. While the Democrats control 53 votes in the 100-member chamber, Senate leaders need the approval of at least 60 senators to hold a vote.

Republican Opposition

In May, 44 Republicans -- led by Shelby and McConnell -- signed a letter vowing to block any nominee to head the bureau until its leadership and funding structures are changed. A 45th Republican signed onto the letter after it was sent.

A procedural vote on Cordray's nomination failed in December. After lawmakers left town for their winter break, senators kept the chamber in "pro forma" sessions in an effort to block a recess appointment.

Before they left, McConnell signaled that Republicans would respond to a recess appointment by refusing to approve other nominations. In a speech on the Senate floor, McConnell said he was willing to move forward with a “package of nominations” as soon as the administration confirmed it would “respect practice and precedent on recess appointments.”

Republicans said there would be repercussions to the recess appointment.

“Senators of both parties should be deeply troubled by the President’s actions today -- actions which will come back to haunt them,” Senator Orrin Hatch, a Republican from Utah, said in a statement.

Senate Democrats and consumer advocates applauded the White House move. Without a director in place, the consumer bureau can’t supervise and regulate non-bank financial firms, such as mortgage originators and payday lenders.

“This is a culmination of a long fight,” Travis Plunkett, the director of legislative affairs for the Consumer Federation of America, said today in a conference call with reporters.

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