The Street

Obama's Bank Chiefs Face Fight With Trump Over Refusal to Leave Early

The heads of some banking regulators -- responsible for enforcing rules that Donald Trump's administration would prefer to dismantle -- aren't planning to leave until their terms end.

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Is a Battle Brewing Between Donald Trump and Regulatory Agencies?

The Obama-appointed chiefs of some top financial regulators plan to serve out their terms, setting up a possible confrontation with Republican President-elect Donald Trump, who has pledged to revamp or dismantle the stiffer regulations their agencies enforced.

The chairman of the Federal Deposit Insurance Corporation, Martin Gruenberg, has said he plans to remain until his appointment expires in November, and the head of Office of the Comptroller of the Currency, Thomas Curry, wants to stay through April.

Additionally, speculation is mounting that Richard Cordray, head of the Consumer Financial Protection Bureau -- a favorite target of the GOP -- and Melvin Watt, chief of the Federal Housing Finance Agency, will try to remain until the end of their terms, in 2018 and 2019, respectively. Housing Finance oversees government-seized mortgage-industry giants Fannie Mae (FNMA) and Freddie Mac (FMCC) .

While it's not unusual for the directors or chairs of key bank regulators to remain well into a new administration, Gruenberg's and Curry's enforcement of regulations implemented under the post-2008 crisis Dodd-Frank Act might well be at odds with Trump policies.

Some lobbyists say the administration might seek to oust Cordray -- and possibly Gruenberg, Curry or Watt -- before they're ready to go. After all -- Trump, famous for ignoring political norms -- also popularized the catchphrase "You're fired" during his stint as host of the television reality show *The Apprentice.*

Additionally, Republicans may follow the lead of Democrats who, when in control of the Senate in 2013, approved rules allowing presidential nominees for agencies and federal judgeships to be confirmed by a simple majority vote, rather than the filibuster-proof 60 votes needed previously.

Mark Calabria, director of financial research at the Cato institute, said Republican Majority Leader Mitch McConnell would probably dismantle the filibuster rules for nominees only if pressed to do so because Democrats were using them to block Republican nominees.

If the Senate does expedite approval for Trump's nominees, however, that would put additional pressure on Obama agency directors to step down.

Chris Cole, regulatory counsel at the Independent Community Bankers of America, said that if the president-elect tried to remove Cordray without cause, it would be difficult for the bureau chief to remain.

"What is his recourse if the president doesn't want him to stay there?" asked Cole. "I would think Cordray would accept the decision by the president and go quietly."

A CFPB spokesman did not return calls seeking comment.

While the Trump administration can't formally remove Gruenberg or Curry, the president-elect's Treasury Secretary nominee, Steve Mnuchin, could make life difficult for both Obama appointees, especially if they buck his wishes to scale back enforcement actions.

"When it comes to these regulators, it depends on how thick your skin is," Lamson said. "Curry could stay on longer than Gruenberg. Gruenberg has a more philosophical stripe. He came from the Democrat side of the hill."

All three men could well prove to be thorns in Trump's plans to overhaul Dodd-Frank.

One particular point of contention may be the FDIC's effort to set up a system to dismantle a failing mega-bank without wreaking havoc on financial markets.

The plan, prompted by the catastrophic effect on credit markets of investment bankLehman Brothers' 2008 collapse, was required by statute. Known as Orderly Liquidation Authority, or OLA, it has been criticized by Republicans who say it gives regulators too much discretion to pick winners among junior and senior creditors.

Paul Atkins, a libertarian and possible candidate for a top government post, runs Trump's transition team for the consumer bureau, the FDIC and the currency comptroller. "Atkins could try to push out Gruenberg if they disagreed with each other on the OLA," said Lamson.

Additionally, Gruenberg, Curry and Cordray all sit on the Financial Stability Oversight Council, a regulatory body that identifies non-bank companies whose failure could pose a risk to the broader economy and that subjects them to stricter limits on capital spending and heightened liquidity standards.

Mnuchin, once confirmed as Treasury Secretary, would be chairman of that panel and might try to lift the heightened regulation of some firms, including Prudential Financial (PRU) and American International Group (AIG) . That would be more difficult with Democratic-leaning agency directors like Cordray still voting members of the panel, though Mnuchin might try to block their access to meetings.

If Cordray does remain through 2018, he might also seek to adopt draft rules the CFPB has been considering for payday lenders and overdraft fees. Efforts to remove him, however, likely would be complicated by a court battle expected to take years to resolve.

A three-judge panel of a federal appeals court in Washington said in October the president has the authority to fire the director even if he or she hasn't completed a term. The bureau requested in November, however, that the entire appeals court -- complete with recently installed Obama-nominated judges -- should conduct a review of the case. The losing side will likely appeal it to the Supreme Court.