



Final Rules Under Obama May Not Be Set in Stone Under Trump

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November 28, 2016

President-elect Donald Trump's administration could block, remove or upend some key Obama administration rules aimed at the financial sector. Industry advocates and regulatory experts say it's just a matter of how and when.

One of the incoming administration's top targets is likely the Labor Department's fiduciary rule that's designed to prevent conflicts of interest among retirement advisers. It was finalized earlier this year and is set to take effect in April. It already faces a spate of lawsuits from industry groups, including the National Association for Fixed Annuities, which is appealing a federal court decision in the rule's favor.

"That will be very high on the list in terms of whatever the new labor secretary does," Mark Calabria, director of financial regulation studies at the Cato Institute, said in an interview Monday.

House Financial Services Committee Chairman Jeb Hensarling (R-Texas) has also named the fiduciary rule as one of his top priorities for dismantling. Trump could potentially let the courts take the lead on weakening it, Calabria said.

Regulations like the fiduciary rule are "enforced by the trial bar more than the regulators," he said. "One way a new secretary of labor could get around a new rulemaking is just settling. You get this interesting circumstance where both parties are essentially on the same side."

Another Labor Department rule, one that doubles the salary limit at which employees are eligible for overtime pay, could also be up in the air under a new president. A federal judge in Texas blocked the rule last week, shortly before it was slated to take effect on Dec. 1. Its fate is now in uncertain.

In addition, Treasury Department rules that were finalized in October to clamp down on corporate inversions could also be in play. David Williams, president of the National Taxpayers Alliance, said the rules needlessly complicate taxes for businesses. "There's a pretty decent chance that these could be reversed and taken away," Williams told Morning Consult.

Corporate tax overhauls, a key item on the GOP's 2017 legislative agenda, would more effectively keep companies in the United States, he added.

The next administration could also simply refuse to enforce certain rules, another approach Trump could take in reversing Obama administration regulations, said Lisa Gilbert, director of the Congress Watch division at Public Citizen.

Congress could also pass legislation banning “midnight rules,” she said, but Republican attempts to pass standalone legislation rolling back regulations would likely face a filibuster by Democrats in the Senate.

“We think that just about anything that has been finalized within 60 legislative days is potentially on the chopping block,” Gilbert said in an interview. Such rules could be overturned by a Congressional Review Act vote, which automatically bypasses a Senate filibuster.

Gilbert said unfinished rules in the current administration are in jeopardy, citing the multi-agency rules on executive compensation and the Consumer Financial Protection Bureau’s payday lending proposal.