



Analysis: U.S. Regulators Could Be Pressured by Slim Republican House Control

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BOSTON/ WASHINGTON, Nov 17 (Reuters) - With the U.S. House of Representatives under their control, Republicans have a new pulpit to try to constrain President Joe Biden's administrative oversight of business issues from consumer finance to climate rules.

Policy analysts said Wednesday's projected win in the midterm elections will embolden Republicans who have alleged the Securities and Exchange Commission (SEC) and Consumer Financial Protection Bureau (CFPB) have overstepped their authority under Democratic leadership.

Republicans argue the agencies have written rules outside of the legal process and taken a hostile approach to industries they regulate, while Democrats say they are only fulfilling their mandate to protect investors and consumers.

Many expect Republicans to grill regulators like SEC Chair Gary Gensler and financial executives at public hearings, though the Democrats' continued hold on the U.S. Senate means they can fend off many challenges to the agencies' authority.

Jennifer Schulp, a director at the libertarian think tank Cato Institute, said the Republicans' unexpectedly tight margin of control in the House will not prompt them to tone down their rhetoric.

"The key to the ability to make noise and to put up roadblocks in the form of oversight turns on which party has control of the House, no matter how slim the majority, because it comes with the ability to control the committees," Schulp said.

An SEC spokesperson said: "Chair Gensler looks forward to continuing to work with Congress on the shared goal of protecting investors, maintaining fair, orderly and efficient markets, and facilitating capital formation."

The CFPB did not respond to a request for comment.

'REGULATORY EXUBERANCE'

Patrick McHenry, a North Carolina Republican in line to lead the House Financial Services Committee in the new Congress, said in an emailed statement to Reuters before the election that Biden's administration "is pushing its agenda through financial regulators because they don't have the votes to pass it in Congress."

"Committee Republicans will work together to conduct appropriate oversight of activist regulators and market participants who have an outsized impact," McHenry said.

Republicans have also pressed current Congressional leaders to have Gensler testify on issues like workforce matters recently highlighted by the agency's internal watchdog.

At a minimum, House investigations and testimonies can take up hundreds of hours of staff time for the regulators and make the agencies more vulnerable to private litigation.

"There's going to be a ton more accountability coming," the chief legal officer of brokerage Robinhood Markets, Dan Gallagher, said at a recent industry event. "This irrational regulatory exuberance is nonsense."

The hours lost could distract the regulators from finalizing rules, such as the SEC's efforts to force more transparency on private equity firms or CFPB efforts to curb bank fees.

BEYOND THE FIREWORKS

What remains unclear is whether such investigations will lead to more than just fireworks at Congressional hearings. Democrats retained control of the Senate in the Nov. 8 midterm elections and its powerful Committee on Banking, Housing and Urban Affairs, to date chaired by Sen. Sherrod Brown of Ohio.

Bryan McGannon, managing director for sustainable investment group US SIF, said the power split will stop Republicans from using federal budget maneuvers to interrupt Democratic priorities.

Rather he expects Republicans will propose big changes with little chance of passage. "The appropriations process in the House will be a messaging exercise, and it's less worrisome since the Democrats will have the Senate," McGannon said.

To be sure, a separate avenue to undo business regulation could come via the legal system, where a 6-3 conservative majority on the U.S. Supreme Court has shown an appetite for aggressive action.

In June, for instance, the court curtailed the Environmental Protection Agency's ability to restrict greenhouse gas emissions from power plants, and another dispute under deliberation could clear the way for a wave of new challenges to federal regulators.

ANTITRUST CONCERNS

Before the election, exploiting antitrust concerns was seen as an additional area of focus for Republicans, especially on investors' growing concern for environmental, social and governance (ESG) matters that has led to some joint efforts by asset management companies.

On Nov. 3 five Republican senators warned corporate law firms Congress would "scrutinize the institutionalized antitrust violations being committed in the name of ESG."

While those Senators will not be in the majority, House Republicans have also criticized companies on ESG-related matters. Companies including BlackRock Inc (BLK.N) have defended their participation in trade groups meant to address topics like climate change, saying they still act solely for client fiduciary interests. But the high-profile Glasgow Financial Alliance for Net Zero recently relaxed a mandate that its members phase out fossil fuels because of antitrust concerns.

In addition, before the election there had been hopes for bipartisan legislation to regulate cryptocurrencies soon.

The collapse of the FTX exchange dashed those expectations, and Cato's Schulp said any bills on the matter likely will have to wait until 2023.

Dante Disparte, chief strategy officer at Circle, the principal operator of one of the world's largest stablecoins, a type of cryptocurrency, said the FTX saga could lead to comprehensive reforms in the same way the 2008 financial crisis led to wide-ranging banking rules.

"What I'm hearing, seeing and perhaps hoping, is that the collapse of FTX is met with the same kind of resolve," Disparte said.