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How Shelby Will Guide the Banking Committee — Again

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WASHINGTON — Republicans won a resounding election victory late Tuesday, easily keeping control of the House and winning enough seats to give them leadership of the Senate next year.

The election results were seen as a boon for banks, who overwhelmingly backed Republican candidates in races during this cycle.

But they were also a victory for Sen. Richard Shelby, who is expected to once again take the gavel of the Banking Committee. While the Alabama Republican isn't new to leading the panel, he will face a crucial ticking clock when he returns as chairman next year.

Under GOP party rules, Shelby has just two more years to head the committee, raising questions about where he will focus his energies and what he can get done in that timeframe, especially given the looming presidential elections in 2016 that will further shorten his prospective legislative calendar.

"He knows he's got two years as chair, but the reality is you don't even have those full two years in terms of being operational," said Mark Calabria, director of financial regulation studies at the Cato Institute and a former Shelby staffer. "You arguably have 14 or 15 months to get something done" before "the presidential elections start to suck the air out of the room."

Shelby is expected to resume the gavel in January, barring further shuffling among GOP leadership on other committees. His six-year term limit for serving as ranking member on the panel expired in 2010, and he stepped aside for Sen. Mike Crapo, R-Idaho, to take over, significantly pulling back on his involvement on the committee during the past two years.

But all of that is likely to change assuming he once again takes over the committee, where he served as chair from 2003 to 2007. Observers predicted that given his long history on the panel, he would be able to ramp up activity faster than some of his colleagues.

"There is some belief that a Shelby chairmanship would be able to hit the ground faster than another, because he's more of a known entity — he has a network of individuals who he could tap for what is a two-year gig at most, and could potentially lay out an agenda more rapidly due to that advantage," said Brandon Barford, a partner at Beacon Policy Advisors and another former Shelby staffer.

That speed is likely to prove particularly important given the narrow legislative window he'd be working with.

"You're not going to see one of those situations where for the first six months people are still trying to figure out where the bathrooms are," Calabria quipped, predicting that Shelby could begin holding hearings on different topics as early as February.

He also noted that Shelby brought several banking staff over to the appropriations panel, where he now serves as ranking member, who could potentially come back to the Banking Committee with him.

In addition, Crapo retained a few former Shelby staffers who could also rejoin. (Though Shelby is currently the top Republican on the appropriations panel, he is expected to step aside for Sen. Thad Cochran, R-Miss., to serve out his term as chairman. Cochran similarly hit his term limit on serving as ranking member of the panel, just as Shelby has done on banking.)

But the big unknown remains whether Shelby would focus his Banking Committee efforts on one major priority or spread his efforts across multiple key issues at once.

"The question is, does he end up delegating leadership to some of the other members?" said Calabria. "That's, quite frankly, the only way he can get the things he wants done in two years — but that's not traditionally how he's done it, so we'll see."

Observers noted, for example, that the Alabama lawmaker is likely to renew his focus on problems with the Dodd-Frank Act, including concerns over the structure and activities of the Consumer Financial Protection Bureau.

"The focus starts with oversight — it will be oversight of the agencies and implementation of Dodd-Frank all the time," said Brian Gardner, a policy analyst at Keefe, Bruyette & Woods. "I would expect the regulators to be making regular trips up to Capitol Hill."

Gardner added that the populist conservative's look at Dodd-Frank could also include raising questions about whether capital standards and resolution authority for the biggest banks are sufficient.

"I think he's going to be tough on the 'too big to fail' banks," he said. "It's going to be a hostile environment for the large banks. You're going to hear a lot of calls for increased capital and questioning about whether Basel III goes far enough."

That's an issue where he could even find common ground with some Democrats on the committee. For example, he and Sen. Sherrod Brown, D-Ohio, a top contender for a ranking member spot on the panel if the GOP wins control, hold similar views about the power of the big banks, even if they might seek different legislative solutions for the problem.

It's also possible Shelby would pursue narrower, bipartisan tweaks to Dodd-Frank, particularly around regulatory relief for community banks, which Brown could also be inclined to support.

There are a number of widely supported bills in the House that have not made it over to the Senate this year under Chairman Tim Johnson, D-S.D., who has worked to protect the financial reform law from any changes.

"You're more likely to see him supportive of changing or repealing existing laws than creating new legislation," said Edward Mills, an analyst at FBR Capital Markets. "What is exciting about Brown as a potential partner is that you have someone who is — oddly enough — on somewhat of the same page with these changes, which opens up the opportunity for some to occur."

Another outstanding question remains whether Shelby would choose to tackle housing finance reform. He was a key player in negotiations leading up to the 2008 housing law that created a new regulator for the government-sponsored enterprises, and some observers said overhauling them remains a key priority for him.

"He's never been a fan of Fannie Mae and Freddie Mac, and he's certainly not a fan of government intervention in the private sector," said Gardner. "He's going to confront a situation where the mortgage finance system is effectively nationalized, and I think that's anathema to everything he believes."

Analysts agree that any plan backed by Shelby would be further to the right than a bipartisan bill championed by Johnson and Crapo that passed out of the Banking Committee earlier this year. Shelby has been relatively silent on the issue over the past two years, and ultimately voted against the Johnson-Crapo bill during the panel markup in May. The legislation passed the panel with majority support, but it failed to advance to the Senate floor.

How far the Alabama lawmaker would tack to the right on GSE reform remains to be seen, particularly if he wants to see a bill enacted. Over in the House, Rep. Jeb Hensarling, R-Texas, chairman of the Financial Services Committee, crafted a bill to drastically cut back government involvement in the mortgage market — but that effort failed to get enough support, even from his own party, for a vote on the floor.

Given the politics of the Senate, Shelby would have to work even harder to reach consensus for a successful chamber vote. Although Republicans will have control of the Senate, their majority is still slim, and Shelby would need to bring on at least a few Democrats to get the 60 votes needed for passage. Whether he could be satisfied with a plan that would also win that kind of widespread support is unclear at this stage.

"He is in no rush to strike at compromise unless he is truly on board with the change," said Mills.

Moreover, if he wants to use his short time as leader of the panel to get something tangible accomplished, an issue like regulatory relief could provide a smoother avenue for enactment.

"Despite his prior legislative efforts, I think he is likely to choose regulatory relief over mortgage finance, in large part because it could be easier to reach an agreement on that issue," said Barford. "As we have seen, GSE reform is a very big lift, and the financial services sector is going to be pushing for a regulatory relief bill."

