BLOG

US election 2020 – Impact on financial regulations

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Regulations were made more stringent after the global financial crisis in efforts to stabilise the financial system. Under the Trump administration, however, there was a constant push to roll back a number of rules and regulations in place during the Obama administration. President Trump revoked many regulations, some of which are outlined below[i] :

- **Dodd-Frank Act:** The Trump administration's attempt to relax the rules around the Dodd-Frank Act weakened banking regulations. The Economic Growth, Regulatory Relief, and Consumer Protection Act of 2018 removed mandatory oversight measures such as quarterly reporting that were in place to ensure banks engage in transparent and safe lending, investing and leverage activities. This put investors' assets at risk. This bill rolled back regulations for banks with less than USD250bn in assets under management and other regulations for banks with less than USD10bn in assets.

- **Privatisation of Fannie Mae and Freddie Mac:** For many years, the profits of these two giant government-sponsored enterprises (GSEs) were transferred to the federal government. President Trump was working to release them from government conservatorship and build private capital for them, and is looking to execute this change before his exit from the White House.

- **Fiduciary rule rollback:** The rule of the Department of Labor that forced financial advisers and brokers handling retirement and 401(k) accounts to act as "fiduciaries" was revoked. The SEC replaced this rule with Regulation Best Interest (Reg BI).

- **Paris Agreement:** Known for his "America first" policy, President Trump withdrew the US's participation in the Paris Agreement citing that its terms are not favourable to US tax payers, corporations or economy.

Under the Biden administration, we expect a slightly tougher regulatory environment, to combat economic inequality and social injustice. While President Trump can be regarded as a populist whose intention was to deregulate policies to support and favour business, President-elect Biden is an institutionalist and a centrist focused on re-regulating reforms and policies.

Financial regulatory priorities under the Biden administration and their impact

Financial regulation	Scope	Likely impact under the Biden administration
Dodd-Frank reforms are here to stay	Dodd-Frank was legislation passed after the global financial crisis	• Stricter enforcement of Dodd-Frank Act • More scrutiny of wrongdoing by major banks and large financial institutions
Consumer protection will be a top priority	It tightened regulations on banks and financial institutions to protect consumers and reduce systemic risk	• Rewrite certain rules around payday lending to underwrite loans only to consumers who can repay them • Focus on regulations impacting minority consumers, such as fair housing, fair lending and overdraft fees[ii] • Janet Yellen[iii] is picked as Treasury Secretary; she believes tighter regulations help the financial system to be better prepared for an economic downturn
	The Consumer Financial Protection Bureau, created by the Dodd-Frank financial reform law, protects consumers from financial abuse	• She argues that the Dodd-frank Act has made the banking system safer, as banks are required to hold higher levels of capital and promote regulation, and large banks are required to conduct annual stress tests to ensure they can withstand a financial crisis
Changes expected from SEC-related regulations[iv]	ESG-related policies	• Currently, there is a lack of consistency, standardisation and regulatory framework around ESG policies, frustrating for investors • The SEC, under the Biden administration, is likely to implement mandatory ESG disclosure standards and more aggressively enforce environmental regulations for all companies[v] • It will look at ESG disclosures such as climate and risk disclosures, corporate governance, worker pay, worker treatment, diversity and healthcare policies • Biden has chosen John Kerry, who had signed the Paris Climate Agreement as Special Presidential Envoy for Climate Change • Biden’s agenda is to rejoin the agreement and build global climate leadership with Kerry

	Likely push towards public markets	• The SEC has been aggressive in expanding the pool of private markets, making it easier to raise money • The Democrats will try to pull companies that have remained private for years into the public markets • They believe that once a company is big enough, it should be a public company and should not go through endless rounds of fundraising to stay private
	Regulation Best Interest (Reg BI)	• Reg BI enforcement is expected to be tougher under Biden, and the administration may attempt to revisit the rule and its standard of conduct • They believe that when workers are saving for retirement, the financial advisors they consult are legally obligated to put their clients' interests first rather than prioritising their self-interest
	Shareholder Proposal Rule	• The Democrats would like to roll back the shareholder proposal rule, as it is very difficult for a small investor to submit or resubmit a proposal for inclusion in company proxy material
	Cryptocurrencies under the purview of the CFTC	• The financial team under the Biden administration says cryptocurrencies including Bitcoin need regulations to grow and protect investors from market manipulation • The view is to consider initial coin offerings as securities and place them under the regulatory purview of the CFTC and SEC[vi]
Housing finance reform	Fannie Mae and Freddie Mac – acted as private companies until 2008, when the government seized control, as they failed during the housing crisis and the subsequent Great Recession	• Biden is likely to reverse Trump's plan to privatise them • He believes releasing the GSEs from government control will result in higher mortgage rates for home buyers • The conservatorship has helped smaller lenders to survive along with large competitors. • The MBS market has been very liquid, favouring borrowers • However, Biden's plans may prove difficult to achieve if he is unable to replace Mark Calabria, the Trump-appointed director of the FHFA and the regulator that oversees the GSEs[vii]

While President-elect Biden has confirmed that his tenure is not a third Obama term, he plans to move the administration to a "rules-based" environment from Trump's "principles-based" approach. The agenda is to ensure that consumers have a voice and the system is one in which everyone plays and abides by the rules. With tighter regulations, coupled with his vast experience in international affairs, Biden's tenure may prove promising for US and world economics.

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Sources

i. https://corpgov.law.harvard.edu/2019/02/06/in-corporations-we-trust-ongoing-deregulation-and-government-protections/

https://www.marketwatch.com/story/the-trump-administration-may-privatize-fannie-mae-and-freddie-mac-and-it-could-disrupt-the-nations-housing-finance-system-11606208076

ii. https://www.cnbc.com/2020/11/10/what-a-biden-presidency-may-mean-for-consumer-protections.html

iii. https://www.cbsnews.com/news/feds-janet-yellen-says-dodd-frank-regulations-help-not-hurt-economy/

iv. https://www.cnbc.com/2020/11/11/what-a-democrat-controlled-sec-might-look-like-and-what-it-would-mean-for-markets.html

v. https://www.teneo.com/its-still-not-easy-being-green/

vi. https://cointelegraph.com/news/biden-taps-crypto-savvy-former-cftc-chair-for-transition-team

vii. https://www.cutimes.com/2020/11/23/biden-likely-to-reverse-trump-housing-finance-reform-plans/?slreturn=20201030041303

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