

Midterm Elections Outlook For Financial Services

By **Randy Benjenk, Samantha Kirby and Nicholas Xenakis** (October 28, 2026, 5:31 PM EDT)

While midterm election outcomes rarely produce immediate policy shifts, changes in congressional leadership and political priorities can significantly influence the pace, scope and direction of regulatory activity across key sectors.

Below, we highlight our predictions for postelection regulatory developments in the financial services sector if Democrats were to win a majority of seats in the U.S. House of Representatives and/or the U.S. Senate.

The federal banking agency regulatory approval process would slow down.

While we do not anticipate an immediate sea change in bank regulatory priorities if Democrats were to win either or both chambers of Congress, we predict that regulatory approval timelines for all federal banking agencies (the Federal Deposit Insurance Corp., Office of the Comptroller of the Currency and Federal Reserve), especially for new bank charters, would slow down as the agencies devote staff resources to briefing and responding to information requests or subpoenas from the new chairs of the banking committees in Congress.

Notably, Sen. Elizabeth Warren, D-Mass., the top Democrat on the Senate Banking Committee, already requested the full charter applications for nine crypto firms that the OCC has approved to form uninsured national trust banks, plus the OCC's legal analyses and its communications with the White House.

In addition, we anticipate that regulatory approvals of larger or more complex business combinations involving banks could also slow down, as the agencies brace for congressional pushback on these transactions. Rep. Maxine Waters, D-Calif., the top Democrat on the House Financial Services Committee, has historically opposed large bank transactions, including personally testifying against transactions at public meetings held by the regulators.

To prepare, financial institutions contemplating applications should consider building additional time into transaction timelines, front-loading engagement with agency staff, and assembling a well-documented record on community benefits, competitive effects and compliance that can withstand congressional scrutiny.



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The pace of rulemaking would also slow down and could be deemphasized in favor of quicker but less durable forms of policymaking.

We anticipate that federal agencies would likely spend more time developing and documenting rulemaking proposals to withstand oversight from a Democratic-controlled House and/or Senate.

The agencies could also increase their use of staff guidance (e.g., no-action letters) in lieu of rulemaking to achieve desired outcomes quickly and without having to comply with the Administrative Procedure Act's notice-and-comment requirements.

Financial services companies relying on staff guidance or no-action relief should assess the durability of that relief, document their reliance on it, and plan for the possibility that informal guidance could be narrowed or withdrawn by future agency leadership.

Crypto-related rulemaking efforts would continue.

When the Senate failed to advance the Digital Asset Market Clarity Act in mid-September, officials from both the U.S. Commodity Futures Trading Commission and U.S. Securities and Exchange Commission stated that they would use rulemaking to provide clearer rules of the road for crypto market activities. Legislative gridlock in a divided Congress would solidify that agency rulemaking is the main path for policymaking in the crypto space.

While there are limits on the scope of policy changes that regulators can make without enabling legislation, we anticipate that agencies across the regulatory spectrum, including the prudential regulators, will continue to pursue rule changes that would be viewed as favorable to the crypto industry.

Companies engaged in digital asset activities should actively participate in the comment process on crypto-related rulemakings and build compliance programs that would hold up under heightened congressional oversight of charter approvals, stablecoin activities and financial crime controls.

The federal banking agencies would face pressure to demonstrate heightened prudential supervision and enforcement.

If Democrats were to win either chamber, the federal banking agencies would face increased pressure to demonstrate that they are using their supervisory and enforcement powers against banks viewed as presenting higher risk. Warren has been vocal in criticizing the OCC's and FDIC's rule defining unsafe or unsound practices.

The extent to which the agencies resist would likely depend as much on economic conditions and the stability of regulated institutions as on policy and political considerations. A major bank failure, cyber event or compliance scandal would increase pressure on the agencies considerably.

The agencies would also face scrutiny of their fair access and financial technology-related examination activity and guidance, and could expect congressional focus on their interactions with industry and processes for rulemaking and applications.

Banks should consider refreshing their risk assessments and accelerating their remediation of open supervisory findings, and they should review their account-access, third-party risk management and fintech partnership practices in anticipation of examination and congressional questions.

The CFPB's record on supervision and enforcement would be investigated.

If Waters were to chair the House Financial Services Committee and/or Warren (or former Sen. Sherrod Brown of Ohio, if elected) were to chair the Senate Banking Committee, we would anticipate investigations into the Consumer Financial Protection Bureau's approach to supervision and enforcement, given that Warren and other Democrats have been highly critical of the CFPB's dismissal of public enforcement actions, its downsizing of personnel and other activities.

Subpoenas to supervised entities and enforcement targets would likely focus not only on the actions or inactions of the CFPB, but also on the underlying products, services, policies and practices of entities subject to CFPB supervision and enforcement authority as proof of concept for the Democrats' view that the CFPB has not fulfilled its statutory mandate over the past two years.

At the same time, if Brian Johnson, the current director nominee, is confirmed, the CFPB is likely to increase the pace of supervision and enforcement of its own volition, particularly with respect to financial fraud and scam prevention.

Entities subject to CFPB authority, particularly those whose enforcement matters were dismissed or terminated, should prepare for congressional document requests by reviewing document retention and privilege protocols. Financial institutions should also consider strengthening fraud and scam prevention controls ahead of renewed CFPB activity.

Anti-money laundering, sanctions and export control investigations would continue, but priorities could change.

Regardless of the midterm outcome, there will continue to be cross-border and domestic fraud-related AML and economic sanctions-related investigation activity, and active use of Office of Foreign Assets Control and Financial Crimes Enforcement Network designation authorities.

More concerted congressional oversight could change some of the priorities for AML investigations, including expanding the emphasis of cross-border investigations to encompass not only activity related to Latin America and the Middle East, but also financial activity tied to Chinese evasion of U.S. trade controls.

However, unless Congress expands funding for FinCEN through the National Defense Authorization Act or other appropriations legislation, AML investigation activity will continue to be resource-constrained.

We expect ongoing, aggressive civil and criminal enforcement of U.S. sanctions and export controls. Over the past two years, the U.S. Departments of Justice, Commerce, Treasury and State have all been investigating companies and imposing penalties for violations of the various U.S. trade controls regimes for which they are responsible.

Given the broad, bipartisan consensus in support of using sanctions and export controls as tools of foreign policy, especially (but not exclusively) with respect to China and Iran, we anticipate continued congressional interest in trade controls enforcement and an administration commitment to bringing cases.

Whether the administration will be willing to take more aggressive action toward China with respect to advanced computing/semiconductor export controls, the Bureau of Industry and Security's affiliates rule,

and dealings with Iran, including steps that could lead to higher oil and gas prices, remains a major unknown, though the recent two-month extension of the U.S.-China trade truce suggests there are unlikely to be notable developments in this area at least until early next year.

If the Democrats were to win control of either chamber, we also would expect more scrutiny of the administration's approach to Venezuela, particularly its management and oversight of Venezuelan oil sales proceeds, and Russia, particularly in light of President Donald Trump's decision to waive key provisions of the recently enacted Lindsey O. Graham Sanctioning Russia and Iran Act.

Sens. Ron Wyden, D-Ore.; Warren; and Sheldon Whitehouse, D-R.I.; have pressed Treasury Secretary Scott Bessent and Secretary of State Marco Rubio regarding Venezuelan oil revenue held in a Treasury-controlled account.

With respect to Russia, on Oct. 16, just days before the act's sanctions provisions were to take effect, the president issued an executive order waiving key measures under the act.

The waiver drew immediate bipartisan criticism. Because the act passed the Senate by an 86-to-11 vote, the waiver is likely to be a focus of oversight, and potentially legislative efforts to constrain the president's waiver authority, when Congress returns after the election, regardless of which party controls either chamber.

Financial institutions should review their exposure to Venezuela-related transactions and Russia-related payment flows, including correspondent relationships with foreign banks in higher-risk jurisdictions, and update sanctions screening and escalation procedures in light of the new law's provisions.

Early departures of key officials could create more dramatic change.

If Democrats win control of the Senate, we expect that they would be highly unlikely to confirm any of the president's nominees absent significant policy or personnel concessions from the administration.

Earlier this year, Democrats on the Senate Banking Committee demanded that Chairman Tim Scott, R-S.C., delay the nomination of Kevin Warsh to lead the Fed until a pair of investigations into central bank Chair Jerome Powell and Gov. Lisa Cook conclude. Warsh was later confirmed on a 54-to-45 vote.

If senior agency officials resigned or were removed for any reason, their positions could remain without a Senate-confirmed replacement for the remainder of the president's term.

In some cases, the administration could use the Federal Vacancies Reform Act to fill vacant positions with other Senate-confirmed executive branch officials, who could serve on an acting basis.

However, if a governor on the Fed Board were to resign or be removed, his or her board seat would remain vacant unless and until a replacement nominee were confirmed. A departure of a Republican board member would leave the Fed Board deadlocked 3-3 between Republicans and Democrats, which could create significant headwinds for large bank mergers and for regulatory reform initiatives.

Companies with pending or planned applications, mergers or rulemaking petitions that depend on current agency leadership should consider accelerating those efforts and developing contingency plans in the event of leadership vacancies or a deadlocked Fed Board.

Democratic majorities in both chambers would put populist legislation into play.

If Democrats were to win majorities in both the House and Senate, we would expect them to look for opportunities to advance populist financial services legislation on which Trump has already staked out a supportive position.

The most likely candidate is the Credit Card Competition Act, sponsored by Sens. Dick Durbin, D-Ill. and Roger Marshall, R-Kan., which would require banks with more than \$100 billion in assets to enable at least two unaffiliated networks on their credit cards, including one outside the major card networks.

Trump endorsed the bill in January and has repeatedly renewed that support, most recently while campaigning for Marshall. Democrats could also pursue legislation tracking other positions the president has taken, such as his call for a 10% cap on credit card interest rates and his focus on fair access to financial services.

Because Democrats would almost certainly fall short of 60 votes on their own, success would depend on attracting a handful of Republican senators to overcome a filibuster.

Even where a filibuster-proof coalition or a presidential signature is out of reach, Democratic leaders could bring these bills to the floor to force Republicans to choose between the president's stated positions and the industry's opposition, creating votes that may be politically difficult heading into the 2028 cycle.

Banks, card networks and other affected financial services companies should evaluate the operational and economic impact of these proposals now, and be prepared to engage with lawmakers on both sides of the aisle early in the next Congress, when coalitions on these issues are likely to take shape.

Conclusion

Midterm elections tend to reshape the regulatory environment gradually rather than all at once, and the effects described above are likely to unfold unevenly over the next two years. Financial services companies and their counsel should therefore treat uncertainty as the baseline rather than the exception.

That means revisiting regulatory assumptions regularly, monitoring Congress as closely as the agencies, and keeping enough flexibility in business and compliance strategies to adjust as the policy landscape takes shape.

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