

Mid-Term Election Recap

Our nation has spoken, and yesterday's votes produced yet another wave election, with Republicans capturing the Senate with 53 seats — and a potential 54th seat riding on a December run-off election in Louisiana. Republicans also expanded their House majority to at least 245 seats, and won governorships in key states across the country.

In the Senate, virtually every close race tipped in the GOP's favor, with Republicans winning Democratic open seats in Iowa, Montana, South Dakota and West Virginia, and Democratic incumbents losing in Alaska, Arkansas, Colorado and North Carolina. This larger-than-expected majority will give Republicans a possible window to govern, but success in the Senate still rests on securing 60 votes to pass most bills (much less 67 to override a presidential veto), which will require attracting Democratic support.

Incoming Senate Majority Leader Mitch McConnell (R-KY) won his reelection handily, but his honeymoon may be short lived. Several members of his caucus are already contemplating White House bids in 2016, and he will be faced with defending a difficult map in that election cycle, when 23 Senate Republicans are on the ballot, including nine in states carried at least once by President Obama. These factors mean the window to pass meaningful legislation will be brief and require bipartisan support to pass the Senate and House, much less be signed by the president.

The House of Representatives was always expected to remain in Republican hands, but the size of the GOP romp surprised virtually all observers. With most races decided, Republicans have gained a minimum of 14 seats, bringing their likely total to north of 245 — the largest Republican majority since Herbert Hoover was president. John Boehner (R-OH), whose political future was thought to be in doubt just a year ago, is now expected to be easily reinstalled as speaker, and will enjoy an expanded majority with a greater cushion to potentially pass difficult legislation over the objections of some of the more conservative elements of his caucus.

CHANGES IN SENATE BANKING COMMITTEE LEADERSHIP

The new Republican majority in the Senate will bring significant changes to the leadership and composition of the Senate Banking Committee. Sen. Richard Shelby (R-AL), a sharp critic of Fannie Mae and Freddie Mac, will likely return as the committee's chairman, reassuming the gavel he held from 2003 to 2007. With the retirement of current Chairman Tim Johnson (D-SD), there are four Democrats who could possibly take over as the lead Democrat on the committee: Sens. Jack Reed (D-RI), Chuck Schumer (D-NY), Bob Menendez (D-NJ) and Sherrod Brown (D-OH). It is the conventional wisdom, however, that Sen. Sherrod Brown (D-OH) will become the panel's ranking member in January. Brown has been a vocal opponent of "too big to fail" institutions, an area where he has some common ground with Shelby, and is also a strong consumer advocate and proponent of community lending institutions.

Assuming the committee "flips" its current partisan ratios, Republicans will have four seats to fill, due to retirements and their new majority. Democrats may not have any new senators join the committee, as the retirement of Chairman Johnson and the loss by Sen. Kay Hagan (D-NC) will bring the number of Democrats on the committee from 12 down to 10.

IMPACT ON THE HOUSE FINANCIAL SERVICES COMMITTEE

Rep. Jeb Hensarling (R-TX) is expected to remain chairman on this key committee — though speculation continues to swirl that he may launch a campaign for a House leadership post, and Rep. Frank Lucas (R-OK) has recently suggested he may challenge Hensarling for the committee's top slot. Either way, the panel's subcommittees will undergo some musical chairs. Rep. Scott Garrett (R-NJ) is expected to remain the chairman of the Capital Markets and GSEs Subcommittee, while Rep. Randy Neugebauer (R-TX), who has championed reforming the Terrorism Risk Insurance Program and limiting the role of

FHA, will likely leave the Insurance and Housing Subcommittee he currently chairs to take the helm of the Financial Institutions Subcommittee, a key panel for conducting oversight of the Dodd-Frank Act's mortgage rules and CFPB. That will leave the gavel at the Insurance and Housing Subcommittee up for grabs.

The Financial Services Committee will also see an influx of new members — and maybe even some returning faces. On the Republican side, Reps. Shelley Moore Capito (R-WV) and Tom Cotton (R-AR) will be moving across the Capitol after their landslide Senate victories on Tuesday. The committee's vice chairman, Rep. Gary Miller (R-CA), as well as Reps. John Campbell (R-CA) and Michele Bachmann (R-MN), are retiring from Congress, while newly elected House Majority Leader Kevin McCarthy (R-CA) is expected to take a leave of absence from the committee to focus on his expanded leadership duties. At the same time, Tuesday saw the return of three former members of the Financial Services Committee: Reps. Bob Dold (R-IL), Frank Guinta (R-NH) and Doug Ose (R-CA). All three stand a good chance of reclaiming their committee seats and prior seniority.

For the Democrats, there will be fewer changes. Rep. Maxine Waters (D-CA) will remain the ranking member, and just three of the committee's Democrats are leaving at the end of the current Congress. Rep. Gary Peters (D-MI), who has championed housing finance reform during his three terms in the House, coasted to victory in his campaign for Michigan's open Senate seat, while Rep. Carolyn McCarthy (D-NY) is retiring and Rep. Steven Horsford (D-NV) narrowly lost his reelection bid.

Terrorism Risk Insurance. The Terrorism Risk Insurance Act (TRIA), which expires at the end of this year, is the biggest unresolved finance issue facing the upcoming "lame duck" session — and potentially the next Congress. Chairman Hensarling believes his negotiating position for major program reforms will be bolstered next year with a GOP-controlled Senate, making it more likely he will push for a short-term extension (6 to 12 months) and a plan to revisit the issue in 2015. House and Senate leaders, however, may prefer to wipe the slate clean and pass a five-year extension with incremental reforms more along the lines of the bipartisan Senate TRIA reauthorization bill, which passed on the floor earlier this year by a vote of 93-4.

Dodd-Frank. We anticipate that incoming Senate Banking Chair Shelby will utilize his post to focus on regulatory oversight (particularly the CFPB, FHFA and HUD), and a potential relief package targeted at smaller financial institutions and community banks. The new Senate GOP majority vastly increases the likelihood that legislation to correct targeted aspects of the Dodd-Frank Act will reach the president's desk. MBA is already working to identify and communicate needed areas of Dodd-Frank/regulatory relief — above and beyond changes to the QM "points and fees" calculation — which would benefit our members.

Housing Finance Reform. GSE reform will remain a key focus of the next Congress and a top priority for MBA. The path to agreement, however, remains as difficult as ever. Both Senators Shelby and Brown will want to revisit the Johnson-Crapo bill, which they opposed when it was considered last summer. Meanwhile, in the House, the GOP's expanded majority makes it less likely that Chairman Hensarling will veer from his preferred approach, which focuses on fully privatizing the secondary mortgage markets. Strong oversight will be given to any transition steps undertaken by FHFA.

Federal Housing Administration. At this time, we see Senate Republicans having little appetite for the type of wholesale changes to FHA championed by their House counterparts, chiefly Hensarling and Neugebauer. Congress is more likely to conduct vigorous oversight of FHA's ongoing administrative actions and seek any substantive changes — either single- or multi-family — through the appropriations process.

SAFE Act. MBA continues to urge Congress to amend the SAFE Act to ensure a level playing field for all mortgage loan officers. We will continue to work diligently in early 2015 to educate the new members of the House and Senate on the importance of ensuring uniform testing for all originators. We are cautiously optimistic that legislation can be introduced in the 114th Congress to address these concerns.

Tax Reform. We expect lawmakers to address expiring tax provisions during the lame duck session, including mortgage insurance deductibility, mortgage forgiveness debt relief and maintaining the fixed rate for LIHTC projects. There will likely be a push for large-scale tax reform in 2015, and there may be attempts to make at least some of the expired provisions permanent before Congress addresses broader tax reform. Former vice presidential nominee Rep. Paul Ryan (R-WI) is poised to take over the gavel on the House Ways and Means Committee, the panel that would lead the way on comprehensive reform.