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WASHINGTON POLICY STRATEGY

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After the close on Monday, Federal Deposit Insurance Corporation (FDIC) Chairman Martin Gruenberg announced his willingness to step aside from his position once a successor is confirmed. That could be a while. We explain why Mr. Gruenberg could be at the FDIC through the end of the year.

On Monday afternoon, FDIC Chairman Martin Gruenberg announced that, in the wake of recent reports of a toxic workplace environment at the FDIC, he is “prepared to step down” from his responsibilities “once a successor is confirmed.” Chairman Gruenberg’s statement follows another statement from Senate Banking Committee Chairman Sherrod Brown (D-Ohio) in which Chairman Brown urged the Biden administration to nominate a replacement for Mr. Gruenberg. Given where we are in 2024, and the fact that this is a presidential election year, we think Mr. Gruenberg could remain in the job until the end of the year.

IT'S GETTING LATE EARLY

Getting a nominee confirmed by September will be incredibly difficult. The calendar says “May,” but since Congress will soon be out of session for the Memorial Day holiday, it is effectively already June. The Senate is scheduled to be in recess for the last week of June, the first week of July (the July 4 holiday), and then another week in the middle of July (the Republican National Convention). Congress will be out of town from early August through Labor Day. There is simply not much time on the legislative calendar between now and Labor Day. The calendar gets even more compressed in the fall due to the November elections. Congress will be out of session to campaign in October and face a packed schedule in late November and December. Fitting an FDIC nomination into the calendar will not be a high priority.

Assuming the White House were to announce a nominee tomorrow to replace Mr. Gruenberg, the best it could hope for is a vote on the Senate floor in September. It would be a heavy lift to just hold a confirmation hearing for a nominee in the Banking Committee before August. Even if the Banking Committee voted on a nominee before the August recess, Senate Majority Leader Chuck Schumer (D-New York) will probably be reluctant to allocate floor time to debate and vote on an FDIC nomination instead of judicial nominees who receive lifetime appointments to the bench. Furthermore, September will be filled with must-pass items ahead of the election. If Donald Trump wins the election and Democrats lose the opportunity to appoint federal judges for the next four years, judicial nominations will become even higher priorities for Senate Democrats. All this assumes the White House can find a replacement for Gruenberg, but that might not be as easy as it seems.

WHO WANTS THIS JOB?

If Mr. Trump wins the election, Republicans will follow the precedent set in 2021 by Mr. Gruenberg and the two other Democratic appointees to the FDIC’s Board, Acting Comptroller of the Currency Michael Hsu and Consumer Financial Protection Bureau (CFPB) Director Rohit Chopra. In that instance, they essentially staged a coup against then-Chairwoman Jelena McWilliams. Republicans would likely follow the Democratic playbook, and when Comptroller Hsu and CFPB Director Chopra are replaced with Republican

appointees, the new Comptroller and CFPB Director will join with Vice Chairman Travis Hill, a Republican appointee, to undercut any Democratic chairman (Note: We do not think a president can fire the FDIC Chairman without cause, so Mr. Trump would not be able to simply fire a Democratic chairman).

All of this raises the question of “Who would accept the President’s nomination?” Given the current situation, we think most potential Democratic nominees would be reluctant to accept the nomination and put themselves through the ordeal of a Senate confirmation process only to be undercut in 2025 if Trump wins. It’s just not worth the aggravation in 2024 to be followed by more aggravation in 2025. On the other hand, if Mr. Biden wins, there will be plenty of people from which to choose.

In the meantime, we expect Mr. Gruenberg will remain as Chairman for the next few months. We think he would like to finish the Basel III Endgame rule as well other items, like the FDIC’s proposed bank merger guidelines. The Basel III project is a complex, multi-agency endeavor, so it will be difficult to complete even if Mr. Gruenberg pushes for a completion. We do not think Monday’s events fundamentally change the timelines for various FDIC regulatory projects, but the FDIC’s work on its regulatory agenda would grind to a halt if Mr. Gruenberg were to resign without having a Senate-confirmed successor in place.

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