

VENABLE<sub>LLP</sub>

# Post-Election Roundup

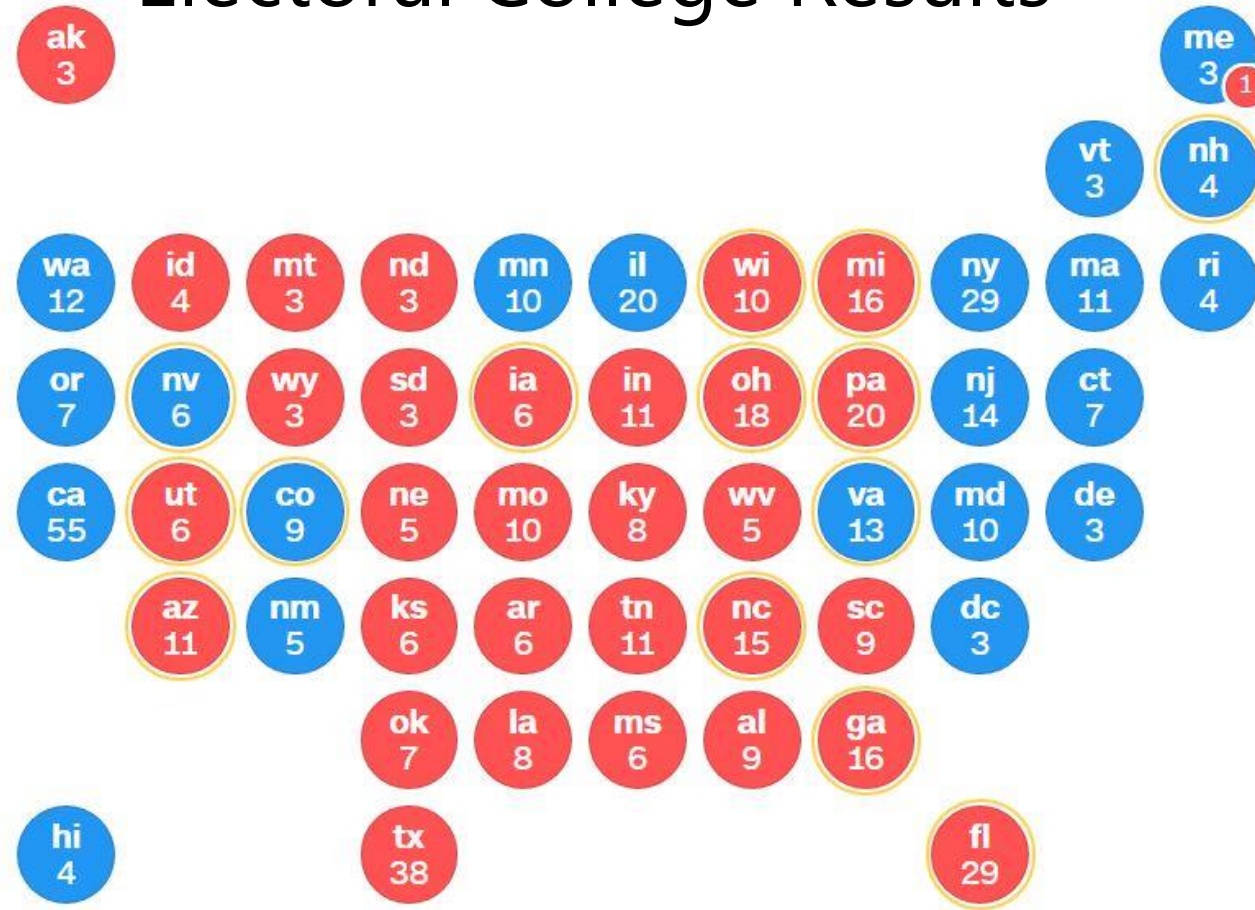


Analyzing One of the Most Consequential Elections in U.S. History

# Election Results



# Electoral College Results

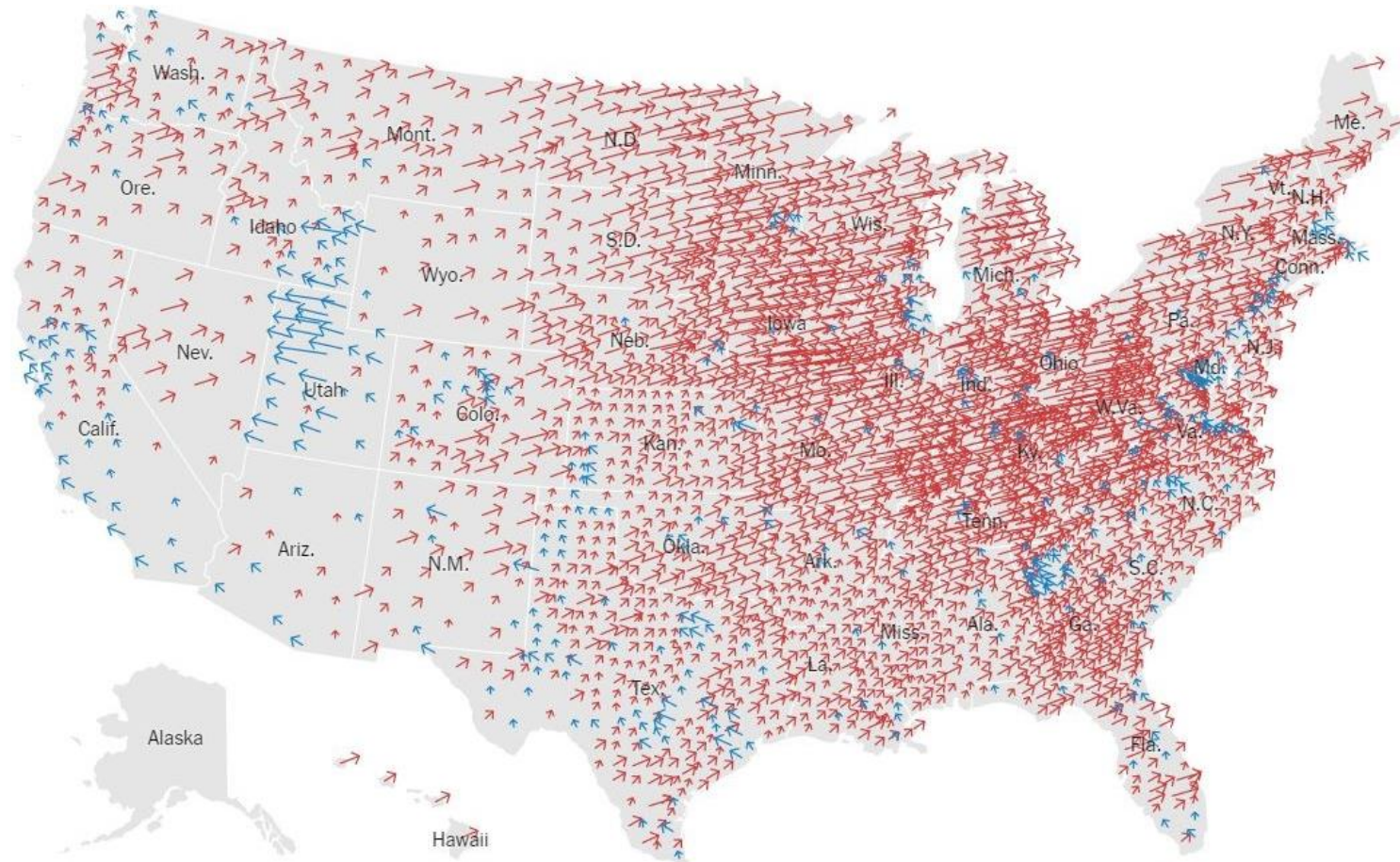


● trump
 ● clinton
 ● johnson
 ● stein
 ● other
 ● voting or processing
 ○ key race

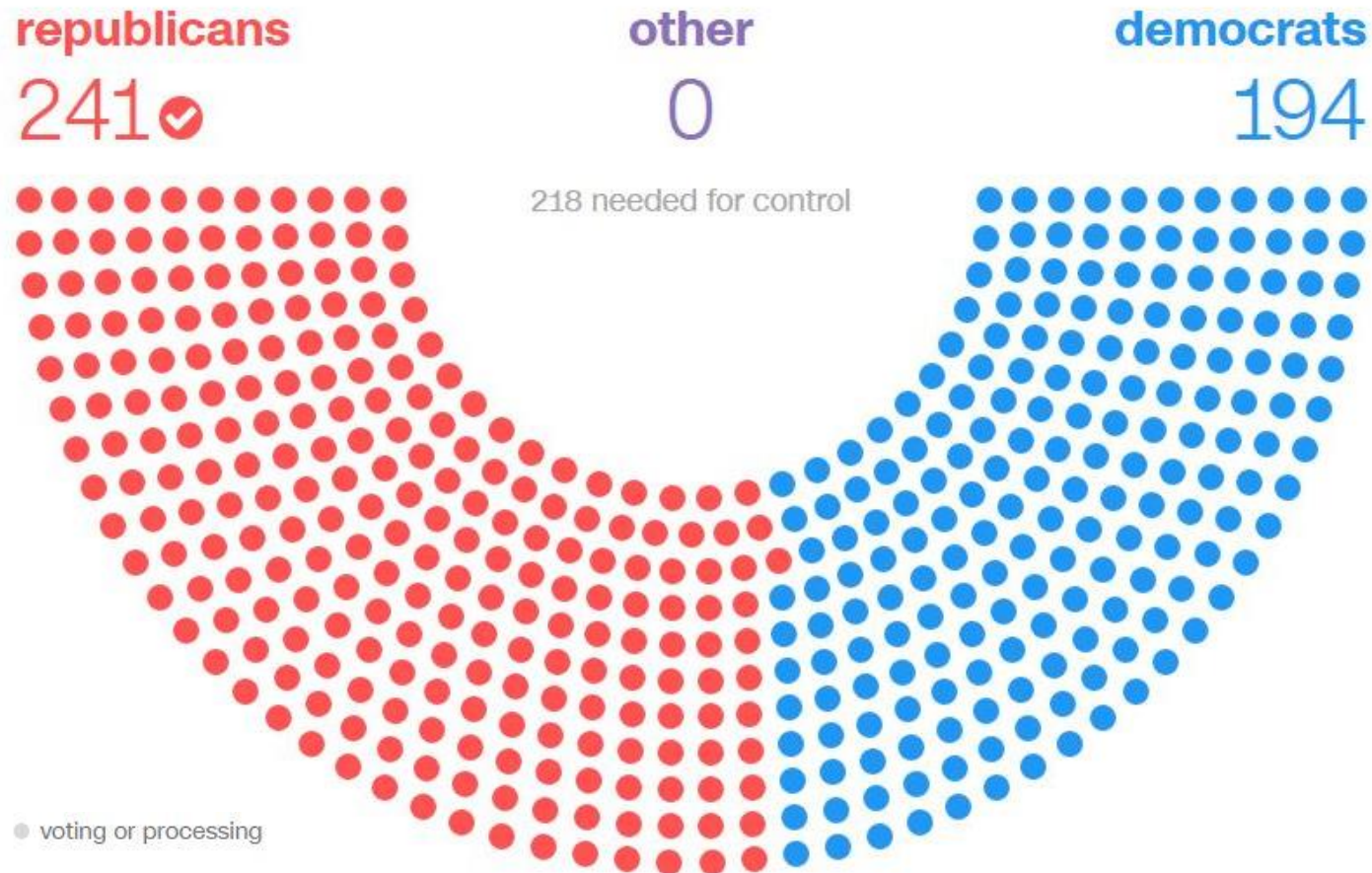




## Election Results – Change from 2012



# House Elections – GOP Retains Control

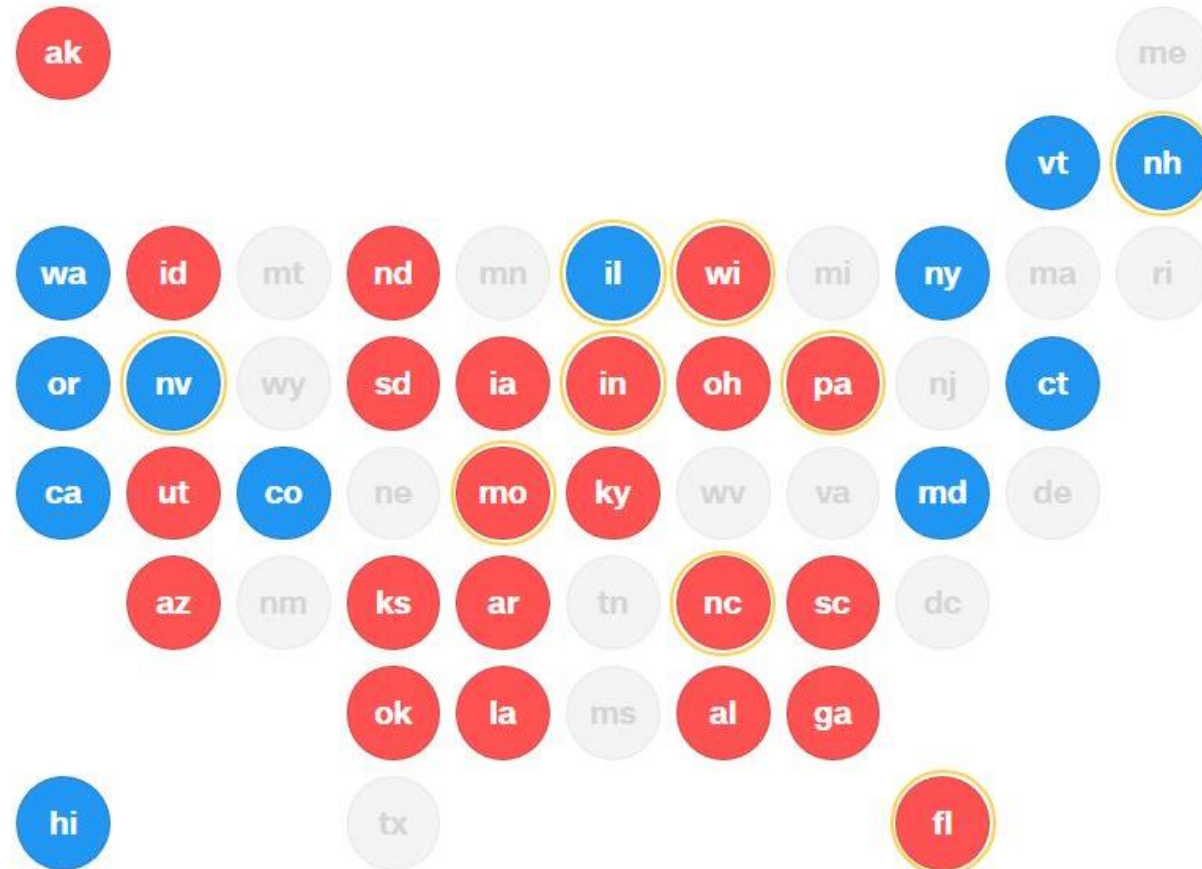




# Senate Race Results

republicans  
52✓

democrats  
48\*



● republican ● democrat ● other ● voting or processing ● no race ● key race



## Key Dates

**January 3, 2017:** 115th Congress (House & Senate) sworn in; Speaker of the House elected

**January 6, 2017:** Congress meets in joint session to count the electoral votes

**January 20, 2017:** Inauguration: President sworn into office at noon

**February 1, 2017:** Start of the review period for the *Congressional Review Act*

**March 15, 2017:** Potential date the debt ceiling is exceeded

**April 28, 2017:** Expiration of current government funding



## Key People





## Key House Leadership

### Speaker of the House

#### Republican Majority Leaders



*Left: Kevin McCarthy (House of Representatives),  
Right: Steve Scalise (Majority Whip)*



*Rep. Paul Ryan (R-WI)*

#### DEMOCRATIC MINORITY LEADERS

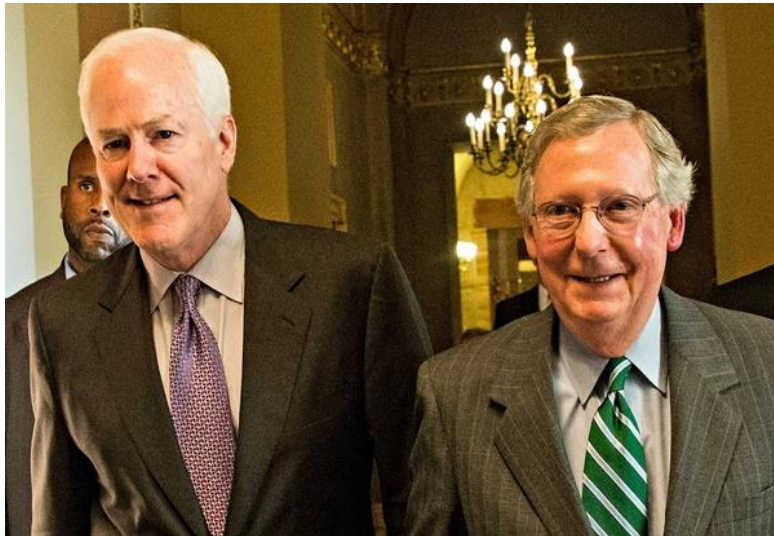


*Left: Nancy Pelosi (House of Representatives),  
Right: Steny Hoyer (Minority Whip)*



## Key Senate Leadership

### Republicans



*Left to right: Majority Whip Rep. John Cornyn (R-TX) and Majority Leader Rep. Mitch McConnell (R-KY)*

### Democrats



*Left to right: Minority Leader Rep. Chuck Schumer (D-NY) and Minority Whip Rep. Dick Durbin (D-IL)*



## Key Players on Financial Services

### House Financial Services Committee



Rep. Maxine Waters  
(D-CA)  
*Ranking*

Rep. Jeb Hensarling  
(R-TX)  
*Chair*



### Senate Banking Committee



Senator Sherrod Brown  
(D-OH)  
*Ranking*



Senator Mike Crapo  
(R-ID)  
*Chair*





## Key Players on Healthcare

### House Energy and Commerce Committee



Rep. Greg Walden (R-OR)  
*Chair*



Rep. Frank Pallone (D-NJ)  
*Ranking Member*

### House Ways and Means



Rep. Kevin Brady (R-TX)  
*Chair*



Rep. Richard Neal (D-MA)  
*Ranking Member*



### House E&C Subcommittee on Health



*Chair*



*Ranking Member*

### Senate Committee on Health, Education, Labor, and Pensions



Rep. Lamar Alexander (R-TN)  
*Chair*



Rep. Lamar Patty Murray (D-WA)  
*Ranking Member*





## Key Players on Tax

### House Ways and Means



Rep. Kevin Brady  
(R-TX)  
*Chairman of Ways and Means*



Rep. Richard Neal (D-MA)  
*Ranking Member*



Rep. Orrin G. Hatch  
(R-UT)  
*Chair*












Rep. Ron Wyden  
(D-OR)  
*Ranking*

### Senate Finance Committee



# Trump's Presidential Cabinet

<b>State</b>  Rex W. Tillerson	<b>Interior</b>  Ryan Zinke	<b>Energy</b>  Rick Perry	<b>Labor</b>  Andrew F. Puzder	<b>Small Business</b>  Linda McMahon	<b>E.P.A.</b>  Scott Pruitt	<b>Homeland Security</b>  John F. Kelly
<b>Defense</b>  James N. Mattis	<b>Treasury</b>  Steven Mnuchin	<b>Transportation</b>  Elaine L. Chao	<b>H.H.S.</b>  Tom Price	<b>Commerce</b>  Wilbur Ross	<b>Education</b>  Betsy DeVos	<b>U.N.</b>  Nikki R. Haley
<b>HUD</b>  Ben Carson	<b>C.I.A.</b>  Mike Pompeo	<b>Attorney General</b>  Jeff Sessions	<b>D.N.I.</b> 	<b>Agriculture</b> 	<b>V.A.</b> 	<b>U.S. Trade Rep.</b> 

*These appointments require Senate confirmation*

*(As of 12/15/16)*



## Trump's Senior Advisors



Senior counselor,  
chief strategist

✓ **Stephen K. Bannon**



Chief of staff

✓ **Reince Priebus**



National security  
adviser

✓ **Lt. Gen. Michael  
Flynn**



White House counsel

✓ **Donald McGahn**

*These appointments do not require Senate confirmation*



## Key Policy Issues





## President Trump's Key Policies



### Immigration Reform



### Customs Enforcement

Including, building "the wall"



### Financial Services Reform



### Trade

TPP, NAFTA, T-TIP



### Infrastructure

\$137 billion in tax credits to leverage \$1 trillion private investment and infrastructure



### Healthcare

Repeal the Affordable Care Act



### Environmental

Climate change policy review and other EPA regulations



### Tax Reform



### Government Budget Fight



### Overall Regulatory Reform

"No new regulations until the economy shows significant growth".



### Executive Actions President Trump Pledged to Take on Day One in Office



#### Trade

Issue notification of intent to withdraw from TPP

Negotiate fair, bilateral trade deals that bring jobs and industry back to our shores



#### Immigration

Direct Department of Labor to investigate all abuses of visa programs that undercut American workers



#### Regulation

Formulate rule that says for every one new regulation to be introduced, two old regulations must be eliminated



#### Ethics Reform

Impose five year ban on executive officials becoming lobbyists after leaving the administration and a lifetime ban on executive officials lobbying on behalf of a foreign government



#### Energy

Cancel job killing restrictions on the production of American energy, including shale energy and clean coal, to create millions of high paying jobs



#### National Security

Ask Department of Defense and chairman of the Joint Chiefs of Staff to develop a plan to protect America's Infrastructure from cyber attacks and all other forms of attacks



**Donald J. Trump** ✓  
@realDonaldTrump

#### What's missing:

- Discussion of building a wall along the Mexican border
- Deporting 1.9 million undocumented immigrants
- Restrict immigration from Muslim nations
- Repealing Obamacare
- Spending \$1 trillion on infrastructure
- Working with Congress

*Via Twitter @realDonaldTrump*



## The Tool Box: Executive Orders, Midnight Rules, *Congressional Review Act*



### ■ **Executive Orders**

- Have the force of law
- 249= Obama; 291= GW Bush; 364= Clinton
- Most Executive Orders by the President to the heads of Executive agencies are only “politically enforceable” by the President against his appointees

### ■ **Revocations possible:**

- Trade (NAFTA, TPP)
- Healthcare
- Immigration (DACA)
- National Security (Lawful Interrogations, Sanctions)
- Environmental/ Climate Change (Paris Agreement)
- Federal Contracting (Wage)
- Guns (mental illness in background checks)



## The Tool Box: Executive Orders, Midnight Rules, *Congressional Review Act*

- **“Midnight Rules”**

- Printed as “final” in the Federal Register
- Card Memorandum: Jan 20th: Withdraw or stay effective date for rules in the pipeline.

- ***Congressional Review Act:***

- May 2016 – January 2, 2017
- “major” = \$100M impact
- Self-limiting: 15 session days. 10 hours of debate per resolution.
- Contenders:
  - Drone rule
  - Clean Power Plan

- **Post-deadline and CRA-ineligible rules:**

- Administration enforcement decisions; new Notice and Comment; Congressional repeal and/or De-funding.





## President Trump's Financial Services Policy

Look to the Senate Banking Committee and HFSC Chair Hensarling for guidance.

### On Dodd-Frank:

*"We have to get rid of Dodd-Frank. The banks aren't loaning money to people that need it.... The regulators are running the banks."*

### On Too Big to Fail:

- Does not support "breaking up" big banks
- But supports *Glass-Steagall*

### On Housing:

Dodd-Frank roll-backs could significantly alter single family residential underwriting requirements and reduce liability that has arguably constrained credit availability

### Regulatory Reform

- No new regulations until economy shows "significant growth"



# "President Trump's Strategic and Policy Forum"

*"... will be called upon to meet with the President frequently to share their specific experience and knowledge as the President implements his plan to bring back jobs and Make America Great Again."*

**Stephen A. Schwarzman**  
**(Forum Chairman)**

Chairman, CEO, and Co-Founder  
Blackstone

**Paul Atkins**

CEO, Patomak Global Partners, LLC  
Former Commissioner of the SEC

**Mary Barra**

Chairman and CEO  
General Motors

**Jamie Dimon**

Chairman and CEO  
JPMorgan Chase & Co

**Adebayo "Bayo" Ogunlesi**

Chairman and Managing Partner  
Global Infrastructure Partners

**Kevin Warsh**

Shepard Family Distinguished  
Visiting Fellow in Economics, Hoover  
Institute, Former Member of the  
Board of Governors of the Federal  
Reserve System

**Bob Iger**

Chairman and CEO  
The Walt Disney Company

**Jack Welch**

Former Chairman and CEO  
General Electric

**Mark Weinberger**

Global Chairman and CEO  
EY

**Jim McNerney**

Former Chairman, President,  
and CEO  
Boeing

**Ginni Rometty**

Chairman  
President, and CEO  
IBM

**Larry Fink**

Chairman and CEO  
BlackRock

**Rich Lesser**

President and CEO  
Boston Consulting Group

**Toby Cosgrove**

CEO  
Cleveland Clinic

**Daniel Yergin**

Pulitzer Prize-winner  
Vice Chairman  
IHS Markit



## Key Financial Services Policy – 115<sup>th</sup> Congress

- Focus on pro-growth policies
- Nominations: Treasury; Fed Governors; SEC
- Dodd-Frank Reform
- GSE Reform
- “FinTech”
- DOL Fiduciary Duty Reform /Repeal
- CFPB Reform
- Federal Reserve Reform
- Cybersecurity
- Sanctions / AML – Iran



## Key Financial Services Issues – 115<sup>th</sup> Congress

### *Regulatory Reform*

**SENATE:** Federal Regulatory Improvement Act (S. 1484)

**HOUSE:** Financial CHOICE (H.R. 5983)

#### **Consensus Views and Commonalities:**

- “Too Big to Fail”/ SIFI/ FSOC Changes
- Community Bank Relief: Streamline exams, Mortgage rules
- Federal Reserve transparency
- Capital Formation for emerging businesses





## Key Financial Services Issues – 115<sup>th</sup> Congress

### *GSE Housing Reform*

- **Democratic Proposal**
- **Republican Proposal**
- **House/PATH Act**
- **“Recap & Release”**
- **Incremental Reform: Credit-Risk Transfer and Common Securitization Platform**



# Housing Finance Reform Proposals - Democratic

A More Promising Road to  
GSE Reform

MARCH 2016

Current System		NMRC	Johnson-Crapo	Recap and Release	PATH Act
Mortgage Rate	6.10%	6.10%	6.26%	6.55%	7.16%
(Increase from current rates)		0.00%	0.17%	0.46%	1.06%
Mortgage-backed securities yield	4.90%	4.70%	4.70%	4.90%	5.30%
Spread of mortgage securities	90 bps	70 bps	70 bps	90 bps	130 bps
Treasury rate (duration matched)	400 bps	400 bps	400 bps	400 bps	400 bps
Servicing and origination compensation	50 bps	50 bps	50 bps	50 bps	50 bps
Guarantee fee	70 bps	90 bps	106 bps	115 bps	136 bps
Expected credit losses	4 bps	4 bps	4 bps	4 bps	4 bps
Administrative costs	7 bps	7 bps	7 bps	7 bps	7 bps
Govt catastrophic reinsurance fee	0 bps	10 bps	10 bps	0 bps	0 bps
Affordability fee	0 bps	10 bps	10 bps	10 bps	0 bps
Payroll tax surcharge	10 bps	10 bps	10 bps	10 bps	10 bps
Dividend on Treasury capital	0 bps	0 bps	0 bps	0 bps	0 bps

*Sperling, Parrott, Zandi,  
Zigas, and Ranieri*



# Housing Finance Reform Proposals - Republican

## Toward a New Secondary Mortgage Market

Michael Bright and Ed DeMarco

September 2016

### Executive Summary

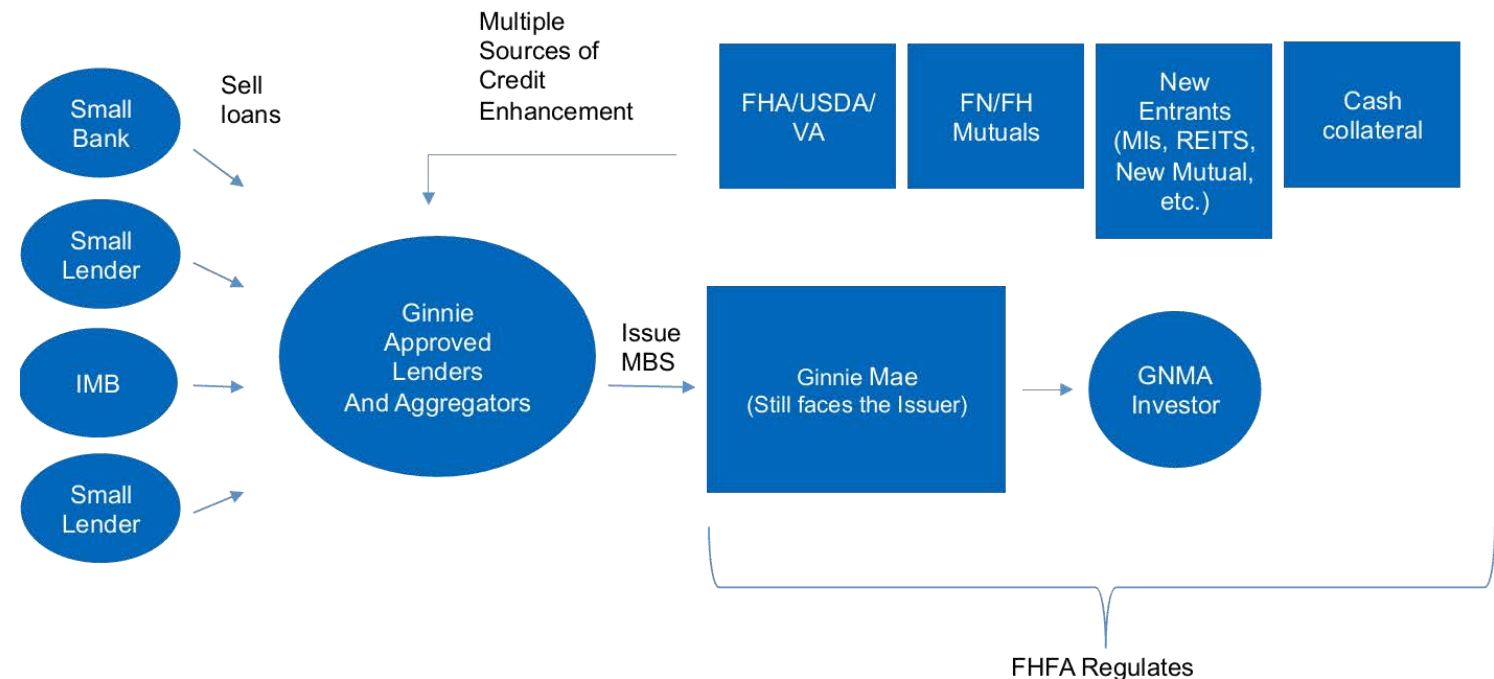
There is a simple and sensible way to finally achieve comprehensive housing finance reform in our country. The approach we propose in this paper is to amend the charters of Ginnie Mae, Fannie Mae and Freddie Mac, and the Federal Housing Finance Agency (FHFA).

Simply amending these charters can accomplish a wide swath of the objectives that have eluded legislators and policymakers since the conservatorship of Fannie Mae and Freddie Mac began in 2008. Each of the charter changes we propose can stand on its own right as sound policy. Collectively, they allow us to take important steps toward a more robust, dynamic, and secure market for mortgage credit risk.

All of this can be achieved while not materially affecting borrower interest rates, since we leverage a well-known and widely accepted government-backed security that the market already understands, as well as risk transfer mechanisms that the market has accepted since 2013. The transition to this reform can be accomplished smoothly, leaving a housing system that is efficient, open to competition and innovation, and ensures a stable supply of mortgage financing.

Our proposal would end the conservatorships, reconstitute Fannie Mae and Freddie Mac as lender-owned mutuals, and build on the credit risk transfer (CRT) initiative to create a private market for mortgage credit risk while preserving a government-guaranteed rates market for mortgage-backed securities. Other firms could compete with Fannie and Freddie in the business of aggregating loans and gathering together the private capital that takes on housing risk ahead of the backstop government guarantee. We seek to make these changes while preserving as much as possible how lenders, servicers, and others operate today so as to keep what works, avoid disruption to current business practices, and limit risk in transition.

**"Keep the baby... throw out the bathwater." – Michael Bright**



*Via the Milken Institute*

## Legislative Options for Repealing the Affordable Care Act

- President Trump and the Republicans in Congress have the ability to quickly eliminate key portions of the ACA using the budget reconciliation process (which was used to enact the ACA legislation)
- This approach allows for the passage of federal tax and revenue measures with a procedure that is not subject to a filibuster in the Senate. The Republicans' majority in the House and Senate would be sufficient to repeal major ACA provisions including:
  - The individual and employer mandates
  - The federal subsidies that reduce the costs of mandated coverage for lower income individuals in the ACA exchanges
  - The taxes built in to the ACA including the medical device tax, the tax on so called Cadillac health plans, and the high-income earner Medicare surtax
- The process would leave in place non-revenue related aspects of the ACA including the requirement that health insurers issue coverage without regard to pre-existing conditions and the mandate that they allow children up to age 26 to be covered under their parents' health plans.
- Repeal could take effect immediately or be delayed to minimize disruption for the approximately 20 million people who have already obtained health coverage because of the ACA.



# Potential Replacements for the Affordable Care Act

## **President Trump's Healthcare Reform Proposal:**

- Completely repeal Obamacare
- Modify existing law that inhibits the sale of health insurance across state lines
- Allow individuals to fully deduct health insurance premium payments from their tax returns under the current tax system
- Allow individuals to use Health Savings Accounts (HSAs)
- Require price transparency from all healthcare providers, especially doctors and healthcare organizations like clinics and hospitals
- Block-grant Medicaid to the states
- Remove barriers to entry into free markets for drug providers that offer safe, reliable and cheaper products

*\*Given the general nature of these policy proposals, the Republican replacement to the ACA is likely to draw upon plans produced by leaders in Congress. Two of those proposals are discussed below.*





## Potential Replacements for the Affordable Care Act *Continued*

### Speaker Ryan's "Better Way" Plan

The House Republicans under the direction of Speaker Paul Ryan have developed a substantial health reform proposal which repeals the ACA and replaces it with an extensive policy framework: titled *A Better Way: Our Vision for a Confident America*. Key provisions include:

- Pre-existing conditions and the individual mandate
- Essential health benefits and age-rating ratios (3 to 1)
- Subsidies and tax credits
- Medicaid block grants
- Capping the employer-based-insurance tax exclusion

### Tom Price's "Empowering Patients First Act"

Tom Price, Trump's nominee for U.S. Secretary of Health and Human Services, has put forward his own plan to repeal and replace the ACA which is similar in many ways to Ryan's Better Way Plan. Price's plan proposes:

- Providing preexisting condition protection only if the beneficiary has maintained continuous health insurance coverage.
- Replace the ACA's subsidies with tax credits based on age rather than income and cap the tax exclusion for employer based coverage at \$8,000 for individuals and \$20,000 for families
- Eliminate the essential health benefits requirements and do away with age rating ratios
- Encourage the use of health savings accounts and imposing limits on medical malpractice litigation.

### The Patient Choice, Affordability, Responsibility, and Empowerment ("CARE") Act from Senator Hatch, Senator Burr, and Rep. Upton

The CARE Act's key provisions include:

- Preexisting conditions and the individual mandate
- Subsidies and tax credits
- Essential health benefits and age-rating ratios. (5 to 1)
- Capping the employer-based-insurance tax exclusion.
- Medicaid block grants



## President Trump's Business Tax Provisions

- 15% corporate income tax rate
- Cap the tax rate on pass-through business income at 15% (possibly limited to small pass-throughs; large entities 15% entity tax and 20% tax on dividends)
- Allow full expensing (but limit interest deductibility)
- Possibly end tax deferral on overseas corporate income
- Enact one-time deemed repatriation tax of 10% on all currently deferred foreign profits (4% tax on illiquid assets)
- Eliminate all corporate tax expenditures (except R&D credit)
- Eliminate Corporate AMT



## President Trump's Individual Tax Provisions

- Individual Tax Provisions
  - 3 tax brackets:
    - 12% (37.5K and 75K)
    - 25% (\$112.5K and 225K)
    - 33% (in excess of \$112.5K and 225K)
- Capital gains brackets of 0%, 15%, and 20% coinciding with income tax brackets
- Standard deduction of \$15,000 for individuals and \$30,000 for married individuals
- Repeal AMT and 3.8% Net Investment Tax
- Repeal estate tax (but disallow basis step-up for estates over \$10M – likely taxed upon sale)
- Tax carried interest as ordinary income
- Deduct child care expenses equal to the average child care cost (income cap at \$250K/\$500K)
- Cap deductions for high-income individuals at \$100,000, or \$200,000 for married filers



# House GOP Task Force on Tax Reform Blueprint

## *Business Provisions*

- Reduces the corporate tax rate from 35% to 20%
- 25% rate for all pass-throughs
- Repeals corporate AMT
- Immediate and full expensing for business investments
- Eliminate current deduction for interest expense
- Net operating losses allowed to carry forward indefinitely
- Retains R&D but eliminates other “special interest deductions”
- Replaces worldwide income tax system with a destination basis cash-flow tax approach that imposes tax by location of consumption (as opposed to location of production). Sales of exported products, services and intangibles would not be subject to U.S. tax. Imported products, services and intangibles will not be deductible.





# House GOP Task Force on Tax Reform Blueprint

## *Individual Provisions*

- Reduce the number of tax brackets to three (12%, 25%, 33%)
- Combines the standard deduction, additional standard deduction, and the Personal Exemption into a "Larger Standard Deduction"
- Combines the Child Tax Credit (CTC) and the personal exemption for children and dependents into one "Larger Child and Dependent Tax Credit." Increases the CTC to \$1,500 per child
- 50% deduction allowance for individuals' net capital gains, dividends, and interest income
- Repeals the estate tax
- Repeals unspecified "special-interest provisions"
- Retains the EITC, higher education deductions, mortgage interest and charitable contribution deductions

INDIVIDUAL INCOME TAX BRACKETS UNDER THE BLUEPRINT

Current Law	Blueprint
10%	0%/12%*
15%	
25%	
28%	25%
33%	
35%	33%
39.6%	



# President Trump's Tax Policy vs. GOP Blueprint

Trump	VS.	GOP
12%, 25%, and 33% brackets		12%, 25%, and 33% brackets
Capital gains brackets of 0%, 15%, and 20%		Capital gains brackets of 6%, 12.5%, and 16.5%
Phases out all deductions except for charitable deduction and mortgage interest deduction (cap itemized deductions at \$100,000 for single filers, 200,000 for married filers)		Eliminates all deductions except charitable deduction and mortgage interest deduction
Eliminates estate tax and AMT		Eliminates estate tax and AMT
15% flat rate for corporations and pass-throughs		20% flat rate for corporations, 25% for pass-throughs
Full expensing for new business investments		Full expensing for business investments
Phase in for "reasonable caps" on deductibility of business interest expenses		No current deduction for net interest expenses
One-time deemed repatriation of overseas held cash at 10%, ends deferral of taxes on corporate income held abroad		8-year period to repay accumulated earnings at 8.75% of liquid earnings and 3.5% of illiquid earnings



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