

Navigating 2025 Financial Regulatory Leadership: A Review of the SEC, CFTC, and Federal Reserve

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December 2024

Executive Summary:

The recent presidential election has heightened discussion regarding the leadership of many of the financial regulatory agencies. Although some current positions have the legal backing to remain as-is, there is precedent and custom that will cause some shifts in some agencies in the transition to the next administration. There is typically more uncertainty in the federal regulatory agencies due to resignations and variations in terms. The President’s authority to remove political appointees is not a new development in American politics but the composition of financial regulatory agencies is different because they were designed by Congress to be independent federal agencies. Because of this, the U.S. financial regulatory agencies have some legal “gray areas” surrounding the removal of their top officials. Historically, and in most cases, the tradition of resignation by agency leadership often avoids the situation where the courts need to get involved, but that is not always the case.

In this brief, we will focus on the U.S. Securities and Exchange Commission (SEC), the U.S. Commodity Futures Trading Commission (CFTC), the Federal Reserve Board of Governors (Fed), the Office of Comptroller of the Currency (OCC), and the Board of the Federal Deposit Insurance Corporation (FDIC). These are just five financial regulators governed by Senate-confirmed officials but due to their proximity to the financial markets, they are the focus of this paper.

Each agency is designed by Congress to balance independence with executive oversight through staggered terms, bipartisan representation, and specific roles for Chairs and Commissioners. Legal precedents like *Humphrey's Executor* and *Seila Law* influence debates on removal authority for these leaders, underscoring the tension between political accountability and agency autonomy. Current Chairs include Gary Gensler (SEC), Rostin Behnam (CFTC), Jerome Powell (Fed), Martin Gruenberg (FDIC), Rohit Chopra (CFPB), and Michael Hsu (OCC). Currently, all of them are not scheduled to complete their Senate-confirmed terms and “term out” until 2026 (Jerome Powell’s tenure as chair will end in 2026, while his term as governor expires in 2028). Traditionally, agency chairs resign near the inauguration of the incoming Administration, as SEC Chair Gary Gensler has recently announced. However, none of the financial regulators are required to step down. If they choose to complete their terms, some legal scholars believe they can only be removed for cause - typically described as “inefficiency, neglect of duty, or malfeasance.”

U.S Securities and Exchange Commission (SEC)

Under Section 4 of the *Securities Exchange Act of 1934*, the U.S. Securities and Exchange Commission (SEC) is governed by a five-member panel of Commissioners. These Commissioners are appointed by the President and require Senate confirmation, necessitating a simple majority vote—51 votes if all 100 Senators vote—to confirm each nominee. Each

Commissioner serves a five-year term, with the terms staggered to end on June 5 of each year, ensuring that only one Commissioner's term expires annually. Commissioners may remain in their positions for up to 18 months beyond their terms if a successor has not been confirmed¹. President Truman's Reorganization Plan No. 10 of 1950² also gave the President the power to select the Chair, as opposed to the full Commission. See Table 1 for more information about the current composition of the SEC.

To promote bipartisanship, no more than three Commissioners may belong to the same political party. Among the Commissioners, the President designates one as the Chair, who holds a unique role as the agency's top executive. Unlike the other Commissioners, the Chair has additional responsibilities, including setting the SEC's agenda, managing the agency's operations, and acting as the primary spokesperson for the SEC's policies and initiatives.

While the Exchange Act is clear on how to nominate a Commissioner, it provides no process for their removal. If it were to happen, both the Trump Administration and its opponents would have some legal precedent. Three cases in particular have taken the spotlight in this discussion: *Myers v. United States*, *Humphrey's Executor v. United States*, and *Jarksey v. Securities and Exchange Commission*³.

Myers v. United States held the President has the power to remove Executive Branch officials from office⁴. A 2020 Supreme Court case, *Selia Law LLC v. CFPB*, placed some limits on this position such that the President may not remove officials serving in non-policy related roles and those directors at agencies with similar provisions to the Federal Trade Commission (FTC). *Humphrey's Executor v. United States* relates to a case in which President Roosevelt removed an FTC official for failing to follow up on his agenda. This action was ruled to be constitutional as the FTC Act permits any Commissioner to be removed by the President for inefficiency, neglect of duty, or malfeasance in office⁵. *Jarksey v. SEC* found that Commissioners and PCAOB were inferior officers and could thus only be removed for cause⁶.

¹U.S. Securities and Exchange Commission. About the SEC. Retrieved from <https://www.sec.gov>

² Reorganization Plan No. 10 of 1950, Pub. L. No. 81-919, 64 Stat. 1265. Retrieved from <https://www.archives.gov>

³ Columbia Law School, CLS Blue Sky Blog. "Supreme Court's Impact on SEC Administrative Processes." November 18, 2024. Accessed via CLS Blog.

⁴ *Myers v. United States*, 272 U.S. 52 (1926). Retrieved from <https://supreme.justia.com>

⁵ *Humphrey's Executor v. United States*, 295 U.S. 602 (1935). Retrieved from <https://supreme.justia.com>

⁶ *Jarksey v. Securities and Exchange Commission*, 34 F.4th 446 (5th Cir. 2022). Retrieved from <https://www.courtlistener.com>

Likely Scenario: Neither the Chair nor any of the Commissioners have to resign before their term ends, however, it is often customary that the Chair will resign around the time of the inauguration of a new President, especially of a different political party. However, resignation is not required by law for the SEC. Based on legal precedents, an incoming Administration would have an uphill battle to remove a Chair without cause⁷. This will not be tested in 2025 because SEC Chair Gary Gensler recently announced that he will resign on inauguration day. Additionally, SEC Commissioner Jaime Lizárraga has announced his resignation, leaving that seat open.

Table 1: Current Terms of the SEC Commissioners:

Name	Title	Term Start	Term End	Political Affiliation	Nominated by
Gary Gensler*	Chairman	2021	June 2026	D	Biden
Hester Peirce	Commissioner	2018	June 2025	R	Trump
Caroline Crenshaw	Commissioner	2022	June 2029	D	Trump
Mark Uyeda	Commissioner	2022	June 2028	R	Biden
Jaime Lizárraga*	Commissioner	2022	June 2027	D	Biden

*Announced resignation prior to Inauguration Day 2025.

U.S Commodity Futures Trading Commission (CFTC)

The U.S. Commodity Futures Trading Commission (CFTC) operates under the *Commodity Exchange Act (CEA) of 1936* and is governed by a five-member Commission. Each Commissioner is appointed by the President, subject to Senate confirmation, with a simple majority vote—51 votes, if all Senators vote—is required for confirmation. The position of Chair goes through a separate Senate nomination. Commissioners serve staggered five-year terms to maintain continuity, with one term typically expiring each year. As with the SEC, no more than three Commissioners can belong to the same political party, promoting bipartisanship within the CFTC⁸. See Table 2 for the information on the current composition of the CFTC and its terms.

⁷ GWU Law Scholarship Repository. Richard J. Pierce Jr. “The Supreme Court’s Opinion in *SEC v. Jarkesy*.” George Washington University, November 18, 2024. Available at [GWU Law](https://www.gwu.edu/~ilaw).

⁸ Commodity Exchange Act, 7 U.S.C. § 1 et seq. (1936). Retrieved from <https://www.cftc.gov>

The President also nominates one of the Commissioners as Chair, who acts as the chief executive officer of the CFTC and also goes through Senate confirmation. However, under the CEA, the Chair's role is a separate designation from that of Commissioner, giving the President the authority to replace the Chair at any time with another Commissioner, pending Senate consent. If the Chair is removed from this role, they can remain as a Commissioner, as the roles are distinct and require separate appointments.

If the Chair position becomes vacant, the remaining Commissioners vote to select an Acting Chair from among themselves until a new Chair is confirmed by the Senate.

Likely Scenario: Given the President's ability to nominate a new Chair for the CFTC, it is likely that Chair Rostin Behnam will resign once a new Chair has been announced or nominated. Given that Commissioner Goldsmith Romero's term has expired, Behnam could serve as the second Democratic Commissioner, if the new Trump Administration chooses not to nominate Goldsmith Romero for a full term.

Table 2: Current Terms of the CFTC Commissioners:

Name	Title	Term Start	Term End	Political Affiliation	Nominated by
Rostin Behnam	Chairman	January 2022	June 2026	D	Biden
Summer Mersinger	Commissioner	March 2022	April 2028	R	Biden
Kristin Johnson*	Commissioner	March 2022	April 2025	D	Biden
Christy Goldsmith Romero*	Commissioner	March 2022	April 2024	D	Biden
Caroline Pham	Commissioner	April 2022	April 2027	R	Biden

*Indicates currently nominated for another Senate-confirmed position.

The Federal Reserve Board of Governors (FED)

The Board of Governors of the Federal Reserve System (commonly referred to as the "Fed") is governed by seven members, known as Governors. These Governors are appointed by the President and must be confirmed by the Senate, which requires a simple majority vote of 51, if all Senators vote. Federal Reserve Board Governors serve staggered 14-year terms, designed to

promote long-term stability and independence. Each term is nonrenewable, although a Governor appointed to fill a vacancy may serve an additional full term if reappointed.

The President also designates one of the Governors as the Chair and another as the Vice Chair, each serving a four-year renewable term in these leadership roles. Additionally, the Dodd-Frank Act of 2010 created the position of Vice Chair for Supervision. Unlike other agencies, there is no explicit statutory provision under the *Federal Reserve Act* that allows the President to remove Governors or the Chair at will. Although Governors may resign or step down voluntarily, they are generally protected from political dismissal, which is intended to maintain the Fed's independence from political influence. Removal could only be pursued "for cause" (such as misconduct), though this is a complex and rarely invoked process that could potentially involve Congress.

If a vacancy occurs in the Chair position, the President can nominate a new Chair, who would also need Senate confirmation. In the interim, the Vice Chair or, if the Vice Chair position is also vacant, another senior Governor may assume the role of Acting Chair until a permanent Chair is confirmed by the Senate.

Likely Scenario: Jay Powell, the Chair of the Federal Reserve Board, was directly asked by Victoria Guida of *Politico*⁹ if he planned to step down during the next administration. Powell responded with a one-word answer, “no.” By law and tradition, the Chair of the Federal Reserve Board does not resign during the transition to a new President¹⁰. This has commonly been the case through many transitions of the Presidency from one administration to another.

Table 3: Current Terms of the FED Governors:

Name	Title	Term Start	Term End	Political Affiliation	Nominated by
Jerome Powell	Chairman	(2018, 2022 Chair terms)	Chair - May 2026 Governor 2028	R	Trump; Biden
Michael Barr	Vice Chair for Supervision	(2022 Vice Chair term)	Vice Chair Supervision 2026 Governor 2032	D	Biden

⁹ Guida, V. *The real reason Trump won't try to fire Jay Powell*. Politico. <https://www.politico.com/news/magazine/2024/11/12/why-trump-wont-fire-fed-chair-00188867>

¹⁰ U.S. Federal Reserve Board of Governors. *Governance and Structure*. Retrieved from <https://www.federalreserve.gov>

Michelle Bowman	Governor	2018, 2020 reappointment	2034	R	Trump
Lisa Cook	Governor	2022, 2024 reappointment	2038	D	Biden
Adrianna Kugler	Governor	2023	2026	D	Biden
Phillip Jefferson	Vice Chair	2022	2026 Vice Chair (2036 Governor)	D	Biden
Christopher Waller	Governor	2020	2030	R	Trump

The Office of Comptroller of the Currency (OCC)

Michael Hsu was appointed by Treasury Secretary Janet Yellen on May 10, 2021, to be First Deputy Comptroller. This made Hsu the Acting Comptroller of the Currency. In this role, he is the administrator of the federal banking system, Chief Executive Office of the Office of the Comptroller of the Currency (OCC), as well as Director of the Federal Deposit Insurance Corporation, and a member of the Financial Stability Oversight Council (FSOC) and the Federal Financial Institutions Examination Council. No nominee was confirmed to be the Comptroller of the Currency so Michael Hsu has been the Acting Comptroller since 2021.¹¹

Likely Scenario:

A new President could nominate a candidate for Senate confirmation to be Comptroller of the Currency. In the meantime, a new Treasury Secretary could appoint someone else to be First Deputy Comptroller, which would mean a change in leadership in the Acting Comptroller position at OCC.¹²

¹¹ U.S. Department of the Treasury. (2024, November 25). *Secretary Yellen announces intention to appoint Michael J. Hsu as first deputy comptroller of the Office of the Comptroller of the Currency*. U.S. Department of the Treasury. Retrieved from <https://home.treasury.gov/news/press-releases/jy0167>

¹² U.S. Congress. (2021). Federal Vacancies Reform Act of 1998. 5 U.S.C. §§ 3345-3349d. Retrieved from <https://www.congress.gov/bill/105th-congress/house-bill/1276>

The Federal Deposit Insurance Corporation (FDIC)

The Federal Deposit Insurance Corporation (FDIC) is led by a five-member Board of Directors, which includes the FDIC Chair, Vice Chair, and a third appointed director. The FDIC Board also includes the heads of two other agencies: the Office of the Comptroller of the Currency (OCC) and the Director of the Consumer Financial Protection Bureau (CFPB). All members are appointed by the President, with the advice and consent of the Senate, and serve staggered six-year terms, with the FDIC Chair typically holding a five-year renewable term.

The Office of the Comptroller of the Currency and the CFPB Director are distinct positions, governed by their respective statutes. The Comptroller of the Currency, under the *National Bank Act of 1863*, is appointed for a five-year term and leads the OCC, which supervises national banks. The CFPB Director, who leads the Consumer Financial Protection Bureau, was initially designed with a single five-year term and significant independence, with protection from removal except "for cause."

However, in *Seila Law LLC v. Consumer Financial Protection Bureau* (2020)¹³, the Supreme Court ruled that the structure protecting the CFPB Director from removal by the President was unconstitutional. The Court held that the CFPB Director, as a single agency head with significant executive authority, could be removed at the will of the President¹⁴. This ruling effectively granted the President the authority to remove the CFPB Director at any time without needing a specific cause.

The FDIC Chair can also be removed by the President, though this may generally occur only "for cause" to preserve the FDIC's political independence. Should the FDIC Chair position become vacant, the Vice Chair or another board member may serve as Acting Chair until the Senate confirms a permanent Chair nominee. See Table 3 for more information about the Members of the FDIC Board.

Likely Scenario:

The FDIC Board and its related agencies should expect large shake-ups with the new administration. As seen in *Seila Law LLC v. Consumer Financial Protection Bureau*, the President can remove the Director of the CFPB without cause. FDIC Chair Gruenberg's resignation was all but guaranteed following the controversy that had placed the FDIC in the national spotlight earlier this year. The Biden Administration had nominated Christy Goldsmith Romero, current CFTC Commissioner to the position. However, following the results of the election and the upcoming "Lame Duck" session of Congress, it seems unlikely. However, there

¹³ *Seila Law LLC v. Consumer Financial Protection Bureau*, 591 U.S. (2020). Retrieved from <https://www.supremecourt.gov>

¹⁴ Congressional Research Service. "Administrative Adjudication Under the SEC." CRS Report R43391, 2024. Available at [CRS Reports](#).

may be some leadership carryover as the Comptroller of the Currency may only be removed after the President has communicated his reasons to the Senate.

Table 4: Current Terms for Members of the FDIC Board:

Name	Title	Term Start	Term End	Political Affiliation	Nominated by
Martin J. Gruenberg**	Chairman	2005 (member), 2012 Chair, New term started 2023	December 2028	D	Biden
Travis Hill	Vice Chair	January 2023	December 2028	R	Biden
Rohit Chopra	CFPB Director	October 2021	October 2026	D	Biden
Jonathan McKernan	Member	January 2023	2029	R	Biden
Michael Hsu	Acting Comptroller of the Currency	May 2021	When Treasury Secretary appoints new first deputy or new Comptroller nominee confirmed by Senate	D	Biden

** Chair Gruenberg announced that his resignation will be on January 19, 2025

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