

## POLITICAL PULSE

**No Blue Wave, But Now What?**

Friday, November 6, 2020

**Donald Luskin**

**Trump's best path now is to litigate toward a "contingent election" where GOP House gains have strengthened his hand.**

*Trigger warning: we are going to have to talk about politics. Please join us in setting personal preferences aside and using best efforts to objectively assess the dynamics and the possible outcome of the 2020 elections, and their impact on markets and the economy.*

As of this writing Mr. Market continues to be happy with the state of the election, despite what we think ought to be his disappointment that President Donald J. Trump is trailing in four of the six undecided states (Arizona, Georgia, Nevada and Pennsylvania worth 53 Electoral College votes) and leading in two (Alaska and North Carolina worth 18). Joseph R. Biden clinches with Pennsylvania, *or* almost any two of the other five. Trump needs Pennsylvania *and* at least three of the other five.

- Mr. Market must just be relieved that the well-advertised "blue wave" of winning "progressive" candidates didn't remotely materialize (see ["Our Hot Take on the Election"](#) November 4, 2020). *In some sense, if Biden is to be the next president, because of both this failure and Biden's age, he will be a lame duck from day one.*
- While this election may turn out to be a referendum on Trump, one that he might ultimately lose, we said that *there would be a great deal of ticket-splitting, and that Republicans down-ticket would not be punished* (see ["Video: Zoom pre-election briefing"](#) November 2, 2020).
- It's going to come down to two run-offs in Georgia on January 5 but it seems fairly certain that *the worst case for the GOP is that it will retain control of the Senate 51-to-49*, exactly as we predicted (see ["What to Watch on Election Night and Beyond"](#) October 27, 2020). *To retain control, the GOP can only lose one of the two run-offs, and at this point we predict they will win both (assuming, as seems highly likely, that the GOP will win undecided races in Alaska and North Carolina).* This will be a firewall against the corporate and individual tax increases that Biden promised repeatedly on the campaign trail. *Perhaps most relieving to markets is not having to worry about forced selling by investors trying to get ahead of the abolition of lower rates on dividends and capital gains income.*
- *Democrats failed to flip any GOP-dominated state legislatures and the GOP is on track to flip New Hampshire and expand its majority*

**Update to strategic view****US ELECTION MODEL, US MACRO, US STOCKS:**

Markets are hanging onto their post-election day gains, relieved that there was no "blue wave" that will lead to significant anti-growth policy risks. GOP retention of Senate control hinges on winning at least one of the two January 5 run-offs in Georgia. The GOP lost no state legislatures, and is on track to pick up New Hampshire, and gain in others, putting it firmly in control of redistricting after the 2020 census. The GOP is on track to gain five or more seats in the House. Some of the particular districts the GOP has flipped are in states where that is sufficient to also flip delegation control in the House. Today the GOP controls 26 delegations, and in the new Congress it will control 27 or 28, which gives Trump a strong hand if there is a "contingent election" decided in the House under the 12th Amendment. For now, Trump's best path is to make sufficiently salient vote-fraud allegations to keep enough states tied up in litigation past the December 14 deadline when electors bind their Electoral College votes.

[\[Strategy dashboard\]](#)



flipped Michigan District 3 from a Libertarian who probably would have voted with the Democrats in a contingent election in the House. This effectively converts the Michigan delegation from Democrat to Republican.

- *The net effect of all this is to increase the GOP's razor-thin majority of House delegations – currently 26-to-23, with 1 tie – to at least 27-to-20 with 3 ties, or at best 28-to-20 with 2 ties* (please see the maps on the previous page).
- *This is an unexpectedly Trump-friendly outcome, exceeding the already optimistic scenario for a contingent election that we had already outlined* (see [“Video: What you're not hearing about how a blue wave could re-elect Trump”](#) September 25, 2020)
- For any of that to matter, though, Trump will have to mount enough litigation in enough states. The idea would be either to overturn results that would have favored Biden, or at least to delay results past the December 14 statutory deadline by which state electors have to bind their Electoral College votes, thus depriving either candidate of a 270-vote majority and throwing the decision to the House.
- *The critical thing we don't know yet is whether the Trump campaign has a solid enough basis for sufficiently extensive litigation. In the brief time since election day, various allegations are being thrown around that are at least salient enough to create the impression that the vote count is highly suspicious in several key states. And in very close elections, even minor issues can magnify into serious litigation, as was the case in the 2000 Florida “hanging chad” controversy.*
- The good news is that it seems the markets have a solid firewall against the worst anti-growth policy scenarios. *In the next few hours, or certainly over the weekend, markets will have to endure it when media organizations “officially” call the election for Biden.* But even then there will be a very real out-of-the-money option on Trump using litigation pull yet another rabbit from yet another hat.

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## Bottom line

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