The Investment Institute
by UniCredit

Coffee Break

Coffee Break is our daily publication, offering topical insights as an intellectual ingot to start the day.

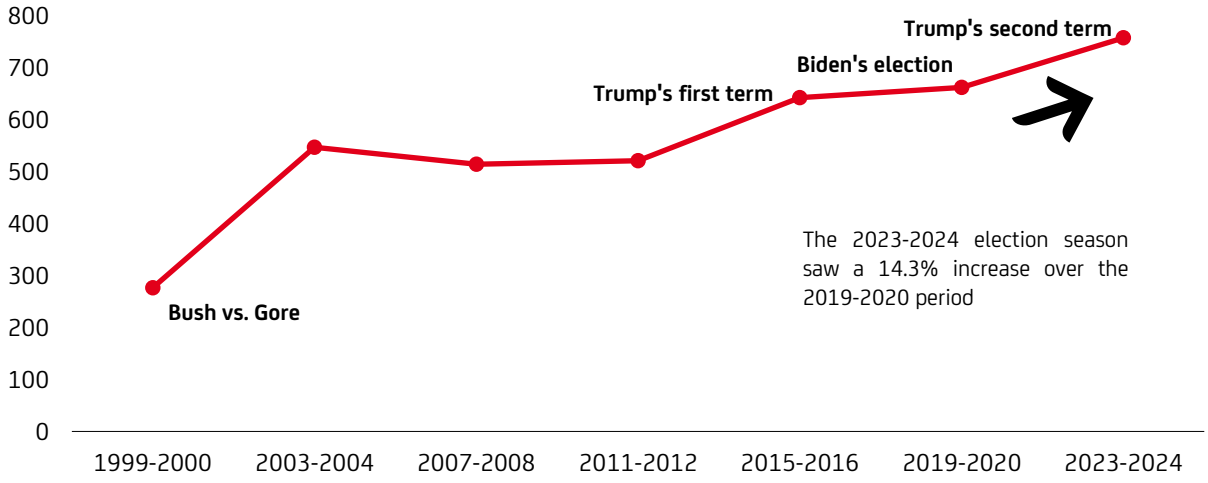
The voting war

3 November 2026

Polls point to a clear Democratic victory in the House of Representatives. Whether there will be a broader "blue wave", with Republicans also losing control of the Senate, remains an open question. In the very short term, the greatest source of uncertainty is the possibility that the Trump administration questions the legitimacy of the election results, potentially triggering a period of heightened political tension and instability.

ELECTION LITIGATION KEEPS RISING

LAWSUITS CHALLENGING ELECTION RESULTS DURING PRESIDENTIAL ELECTION YEAR IN THE US



Source: Rick Hasen's dataset, The Investment Institute by UniCredit

THE CONTEXT

Today, Americans will head to the polls to elect all 435 seats in the House of Representatives and part of the Senate (35 seats out of 100). While a Democratic victory in the House is widely expected, the Senate race remains an open question. In itself, such an outcome would not be surprising. Since the end of World War II, the president's party has lost an average of 25 House seats and 3.5 Senate seats in midterm elections. The most likely outcome is a political stalemate. If the Democrats win only the House, the Trump administration would lose its ability to pass legislation, as most bills must be approved by both the House and the Senate.

If the Democrats also win the Senate, they would still be unlikely to gain significant legislative power. In the upper chamber, major initiatives often require a supermajority of 60 votes to overcome procedural hurdles, whereas the Democrats would, at best, secure only a simple majority. Moreover, any legislation would still require the president's signature and the Democrats would not have large enough majorities to override a presidential veto. Donald Trump recently stated that, if he loses the midterms, he will become "Mr. Veto". As we have discussed in other reports, Trump is likely to push the boundaries of presidential authority even further, increasingly relying on executive powers and potentially moving toward what could be described as an "emergency presidency". Before the post-election political dynamics play out, however, attention will turn to how the Trump administration responds to the election results. Trump recently stated that he would accept the results, provided they were "honest elections". This raises the possibility of his administration questioning the legitimacy of the vote. And one way to do so is through lawsuits.

THE DATA

Election-related lawsuits have almost tripled since the contested presidential election in 2000. As our chart shows, after the number of cases stabilised during George W. Bush's second term and Barack Obama's presidency, litigation increased during the Trump era. 2020 marked the first time that litigation cases exceeded 400 in a single year. We note that 2018 was also a record year in this respect when considering that midterm election years tend to have lower rates of election litigation than presidential election years.

Election litigation is on the rise for a variety of reasons. There is growing awareness among political strategists that, in tightly contested races, election rules can have a decisive impact and may be challenged or reshaped through the courts. Legislative changes to voting procedures have also led to additional legal disputes. For instance, during the 2020 election cycle, the COVID-19 pandemic prompted some states to modify voting rules to facilitate safe participation, while others chose to maintain existing procedures. Both approaches became the subject of legal challenges. Meanwhile, changes to campaign finance regulations have made it easier for political parties to raise funds earmarked for election-related legal battles, contributing to a greater number of lawsuits, some of which appear aimed more at attracting public attention rather than securing judicial victories. Finally, increasing political polarisation has raised the stakes of electoral competition, giving both parties stronger incentives to contest election outcomes through the courts.

OUR VIEW

Our baseline is for the Democrats to win the House and have a good chance of securing a narrow majority in the Senate. Historically, midterm elections have fairly limited market implications. This is our view also this time around. However, Trump has surprised the international community and financial markets repeatedly in the past. It is not inconceivable that he might challenge the midterm results. He might cast doubt on the legitimacy of the results and refuse to accept them, making unsubstantiated claims about rigged elections, foreign interference and voting by non-citizens. There could also be attempts to bar mail-in ballots or seize voting machines. Some states may refuse to certify the results. The anti-election machine has already been activated: the Department of Justice (DOJ) has filed a pre-election request in California to block the state from counting some mail-in votes; it also filed a lawsuit against Alaska seeking an injunction against the certification of the state's election results if the Republican candidate loses. But the DOJ is moving on many fronts.

Assuming that some incidents might happen and the political climate in the country becomes more tense, we expect tensions to be short-lived as the US president has no power, emergency or otherwise, over elections. And the last 18 months have shown that there are still checks and balances in America to tame the abuse of power by the executive. The Trump administration has launched many lawsuits against officials and press organisations and has had a very low success rate so far. However, at least until election certification processes are concluded, rhetorical or legal challenges to the vote might fuel a temporary "sell America" trade as investors will likely be questioning the democratic soundness of the US.

TODAY'S DATA RELEASES

Time (CET)	Country	Data	Period	UniCredit	Consensus	Previous
-	US	Midterm elections	-	-	-	-
16:00	US	JOLTS job openings (thousands)	Sep	-	7100	7079

Source: Bloomberg, The Investment Institute by UniCredit

Author
Edoardo Campanella, Director and Editor-in-Chief of The Investment Institute (UniCredit, Milan)
edoardo.campanella@unicredit.eu

Editor
Francesco Maria Di Bella, FI Strategist (UniCredit, Milan), francescomaria.dibella@unicredit.eu

UniCredit S.p.A
The Investment Institute by UniCredit, Piazza Gae Aulenti, 4, I-20154 Milan
www.the-investment-institute.unicredit.eu

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