



What Happens If...?

George Mateyo, Chief Investment Officer

We can't predict what will happen. But we can prepare.

In political parlance, an “October surprise” is a headline-grabbing event that has the potential to influence the outcome of an election. Because many of the most prominent elections occur in early November, such events that take place in October are seen as “scrambling the political calculus just as the stakes are at their highest,” according to one political observer. “It can save a political campaign as quickly as it can wreck one. And occasionally, it can even decide an election and set the course of the nation.”

In 2020, a year that may already be described as a year of unending surprises, an October surprise came early with the passing of iconic Supreme Court Justice Ruth Bader Ginsburg — an event that sharply shifted the political conversation to the nation’s highest court.

Late last week, however, yet another story broke that could easily qualify as an October surprise: The president and first lady of the United States had tested positive for COVID-19.

COVID-19 has altered many people’s lives in deeply profound ways, and by no means do we wish to sound callous when discussing investment implications regarding such events. Nor do we take sides or attempt to subliminally signal a winner. We are rooting for our great country as a whole and not one candidate over another. We sincerely wish all who have been infected a speedy recovery to good health. At the same time, we recognize the need to comment on such consequential issues and provide counsel in times of uncertainty.

Given recent events, investors are possibly pondering several significant questions: What happens if a president is unable to fulfill their duties? What happens if a candidate is unable to finish the campaign, and what happens to the votes cast for them? What happens if the November 3 winner is unable to begin their term after being elected? With four weeks until November 3, can Election Day be changed? And what does all of this mean for my portfolio?

Ratified in 1967 to clarify transfers of presidential power, the 25th Amendment of the US Constitution states that the president can voluntarily transfer the duties of the office to the vice president. If the vice president is unable to serve, next in line are the speaker of the House of Representatives (Nancy Pelosi, age 80), the president pro tempore of the Senate (Chuck Grassley, age 87), followed by the secretary of the State Department and the secretary of the Treasury. This willful transfer of power has happened on three occasions in the last 53 years.

The 25th Amendment also allows for an involuntary removal of a president, including if they are too ill to designate their responsibilities or simply refuse to do so. For this to occur, two-thirds of the Congress (both the House and the Senate) must agree that such action is warranted. While this power has never been used before and a situation like this could be complicated, the line of succession is fairly well specified.

Less clear is a scenario in which a candidate is unable to complete the campaign. Generally, the nominating political party would replace the candidate. However, since ballots in this election have been sent out and people are already voting, this would be impossible.

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It would likely lead to a situation where state legislatures would have to decide whether the state electors could then cast their votes for someone other than said candidate. This could be a messy situation and create more uncertainty.

Messier still is a situation where a candidate is elected but withdraws or becomes unable to assume office before being sworn in. Here, state laws will likely be subject to reinterpretation and possible alteration if they required electors (i.e., members of the Electoral College) to bind their votes to the candidate who won the popular vote in that state. Not an easy process, we would assume.

Yet another event to consider is the possibility of Election Day being postponed. Curiously, this date is not specified by the Constitution; the only date that is named is January 20, the date on which a new administration begins. Congress possesses the power to postpone the day of the election, although most pundits view that as a highly unlikely event in 2020.

Many questions exist, and not all of which have well-defined answers. Yet, even though uncertainty is likely to persist, we continue to believe that investors should not be making major moves in their portfolios. Sometimes doing nothing is better than doing something, we contend.

Moreover, the notion that uncertainty will persist has become a well-established view. It is possible, therefore, that the next headline-grabbing event could be one that few people are currently anticipating – a positive one.

Thus, we reiterate our stance of maintaining a neutral-to-risk position and favor high-quality issues. We also are maintaining a slight overweight to those areas of the capital markets that are poised to benefit from a broadening recovery versus being overly exposed to investments that represent large positions in many passively managed investment vehicles.

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For more information, [please contact your Key Private Bank Advisor.](#)

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