

Democracy is messy

By Kurt Lieberman, CEO of Magni Global Asset Management. He can be contacted at kliberman@magniglobal.com.

Perhaps the best place to start a summary of the recent US election is with a quote from Winston Churchill: "Democracy is the worst form of government except for all the rest".

While there will be a lot of news until Inauguration Day on the 20th January 2021, the basic result is known. Joe Biden will be the next president of the US. Kamala Harris will be vice-president. She has achieved some significant milestones, among them the first female and the first person of color to be elected vice-president. Despite Republicans losing the presidency, the party will gain seats in the House in the next Congress, convening the 6th January as well as gaining seats in many state legislatures.

No doubt some media around the world have carried some of many topics related to the election which have been published here. Much of the material may be confusing to those outside the US, given the unsubstantiated conspiracy and massive fraud allegations. I will try to provide some clarity.

Elections in this country are run by the individual states, though the presidential election occurs on the same day across the country. States can, and do, have somewhat different voting laws and practices. For example, some states encourage voting by mail, while others focus more on in-person voting. Even within voting by mail procedures, there are

differences in the process and timing of vote counting. Some states allow preprocessing, such as validation of the voter's identity and eligibility to vote, when the ballots arrive at the location where counting will occur, while other states do not allow any handling of ballots until election day.

These differences can lead to stressful situations. The state of Pennsylvania is an important state, yet it does not allow processing of mail-in ballots until election day. A better part of a week was required to complete the counting of these ballots. Some of these rule variations have become the source of affidavits claiming fraud. Fortunately, courts acted quickly and dismissed such claims. Readers may remember how long it took for the courts, including the US Supreme Court, to determine the outcome of the 2000 Bush-Gore election.

The various jurisdictional processes for counting ballots have multiple checks designed to make an election as fair as possible. The two major parties have watchers who observe the count. Armies of lawyers stand ready to file lawsuits in the case of what might be considered improper processes or activities.

Lawyers for the Trump campaign have filed dozens of lawsuits. So far, the Trump campaign has a few procedural cases and lost many with the losses being dismissed for lacking evidence, jurisdiction, or other elementary flaws. In the cases so far, the Trump campaign has NOT alleged fraud. Among the remaining cases, legal experts have observed that they are weak, the evidence is

lacking, and the requested ruling would have vast impact on the vote count (e.g. invalidating ballots from entire cities), thus having the potential to disenfranchise many voters for, at best, minor technical process issues.

“ The unsubstantiated conspiracies and allegations of massive fraud do not have evidentiary support. I believe them to be harmful to this country ”

By the way, lawsuits are common following major elections. The volume of lawsuits following this election is higher than normal, and the degree of acrimony about the election is much higher than normal.

As required by law, the secretaries of state in each state have certified the election in their jurisdictions. In response to the various allegations of fraud, the secretaries of state in places with the greatest controversy have asserted that the election was free and fair. By the way, some of these people are Republicans like Trump. In addition, both the Department of Homeland Security and the Department of Justice have made public comments asserting the integrity of this election.

The unsubstantiated conspiracies and allegations of massive fraud do not have evidentiary support. I believe them to be harmful to this country. That said, a democracy can be messy. We will weather this storm. ☺

