

MEDIA MENTION

Wiley Rein's Michael Toner Discusses Slow-Moving FEC Appointment Process

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Michael E. Toner, co-chair of Wiley Rein's Election Law & Government Ethics Practice, was quoted by *Politico* this week in a story about the slow-moving process of appointing new commissioners to the six-member U.S. Federal Election Commission (FEC).

President Obama has nominated only one person to the FEC, and that nominee wasn't confirmed by the Senate. President Obama is the first president in history to have served a four-year term without appointing anyone to the FEC, and it is unclear when President Obama will succeed in getting any appointees seated at the agency.

The FEC currently has one vacant seat and five commissioners who are continuing to serve—even though their terms have lapsed—because the federal election laws allow members with expired terms to remain in the posts indefinitely until their replacements are confirmed. The White House is currently vetting two FEC nominees—a Democrat and a Republican—and plans to announce them after the Senate returns from Memorial Day recess, *Politico* reported.

Mr. Toner commented on the practical impediments to serving on the FEC. "For lawyers with established practices and a good client base, leaving private practice to serve as a commissioner on the FEC can be a major financial hit. . . . Serving on the FEC can also be challenging on the back end given that you leave the agency with zero clients and the need to rebuild your law practice."

Mr. Toner also advanced his theory as to why the Obama administration has not been more aggressive in trying to get nominees seated at the FEC. "I think one reason that they have not

Related Professionals

Michael E. Toner
Partner
202.719.7545
mtoner@wiley.law

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sought to nominate a lot of people to the FEC is that they've actually been pretty pleased with how the FEC has performed," Mr. Toner told *Politico*. "The fact that they've only tried to nominate one person to the FEC – I infer from that that they actually like the way the agency has performed."