

Getting Ready for Potential Democratic Oversight in Congress

Client Alerts

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Throughout the midterm campaign season, and in minority-led investigations this Congress, Democratic ranking members at key oversight committees in the House have been clear about their intention to vigorously investigate allegations of “corruption” should they win the majority in November. For instance, if Democrats control the House come January 2027, Rep. Jamie Raskin has said the Judiciary Committee’s “number one” priority will be “looking at systems of bribery, kickback and financial corruption and opportunities for disgorgement and restitution to the American people.” Rep. Robert Garcia said “our top issues” at the Oversight and Government Reform Committee will be “Trump corruption and Trump family corruption. Everything to do from the crypto scheme to pay-to-play, selling pardons, obviously the Trump family cutting real estate deals, the defense contracts.” Many of these investigations will focus on the private sector, especially where companies and individuals had interactions with the President’s campaign, the Trump family, and the White House.

1. Introduction

Democratic leaders in the House have also made clear that they recognize voters’ top concern is the economy—specifically, higher costs for necessities like gas and groceries. Polls continue to show that voters are most concerned about issues that impact their pocketbooks—and the House Democratic oversight agenda has come to reflect that concern. Just last week, Fox News released a poll finding that the top two issues on voters’ minds are (1) corruption in government and (2) inflation and prices. More recently, Minority Leader Hakeem Jeffries has stressed the need to combine corruption investigations with addressing the high cost of living, and Minority Whip Katherine Clark has highlighted an alliterative agenda focusing on costs, care, and corruption. Investigations that seek to link higher prices and corruption have now moved to the top of the oversight plans being compiled on whiteboards by “an army of committee staffers” on Capitol Hill.

Democratic leadership’s fine-tuning of the oversight agenda to reflect voter priorities has also made the implications of the midterms clear for the private sector: companies in industries where costs have risen; that have had notable engagements with the Trump Administration, the Trump family, or the Trump campaign; or benefited from regulatory or other forms of relief, are at the greatest risk of

being targeted with requests for documents and information from Democrat-led committees in the 120th Congress.

In particular, companies in the tech, financial services, crypto, pharmaceutical, and federal contracting sectors should anticipate heightened scrutiny, especially as the issues that are driving midterm messaging are refined for the 2028 presidential election cycle. Preparing for those inquiries now is essential for developing effective response strategies.

2. What This Means

What will investigations look like in 2027 if the Democrats get access to subpoenas and the keys to hearing rooms? The best indications are found in the topics and targets on which House Democrats have already started work. Ranking members across House committees have already initiated minority-led investigations into dozens of issues. The investigative topics with the most relevance to the private sector are ties to Trump family businesses; White House projects; gifts and emoluments; federal contracting; tariffs; energy and mining deals (especially deals with a nexus to Venezuela); and deals under pressure from the White House (especially those with a nexus to the First Amendment).

Controlling the gavel means that Democrats will have the power to compel documents and testimony, and ranking members at key committees have been strategizing with Democratic leadership for months about how they will divide up the investigations next year. This coordinated, all-hands-on-deck approach appears to address challenges that arose after the 2018 midterms, when several House Democratic chairs lost time negotiating a Memorandum of Understanding to govern information sharing among the committees before finally issuing subpoenas to banks and accounting firms that possessed Trump family records in April 2019.

In other words, in 2027, oversight of the highest-priority topics will come from all angles, and it will come quickly. Rep. Garcia will lead investigations into government contractors at the Oversight Committee. Rep. Raskin will focus on gifts to and deals with the White House and DOJ at the Judiciary Committee. Rep. Bennie Thompson will focus on DHS contractors at the Homeland Security Committee. Rep. Maxine Waters will focus on deregulation and the banking and crypto industries at the Financial Services Committee. Rep. Frank Pallone will focus on surveillance pricing and health care costs at the Energy and Commerce Committee. Rep. Jared Huffman will prioritize investigations of donations to Freedom250 and activities on public lands at the Natural Resources Committee.

It is not unusual for the majority-in-waiting to declare an extensive oversight agenda such as this. As recently as 2022, House Republicans previewed their plans for investigating rising costs, censorship, COVID-19 origins, and other hot-button issues in the run-up to the midterms during the Biden Administration. What is different this time, however, is how Democrats say they will approach those investigations. Democratic leaders have said they expect the Administration to be highly

litigious and broadly non-responsive to document requests. Having learned lessons from their multi-year effort to obtain President Trump's financial records from the private sector during his first term, and having observed House Judiciary Committee Chairman Jim Jordan's effective strategy for obtaining Biden Administration records about social media content moderation from several Big Tech companies, Democrats will use third parties and companies as proxies for the Trump Administration—even in cases where there is no allegation of wrongdoing by the company in possession of the records that Democrats are seeking.

3. The Implications

As a result, Democratic-led oversight of the private sector is likely to be more intense in the 120th Congress than ever before. Companies should anticipate letters requesting company documents; internal communications and communications to and from the Administration; and closed-door briefings and transcribed testimony. Engagements along these lines will involve extensive threats to use, and actual use of compulsory process (i.e., subpoenas). Threats to enforce subpoenas to the private sector, including via the criminal contempt process and/or civil litigation, will become more common. Democrats may also rely on the fact that Congress' investigative authority is at its Constitutional zenith during an impeachment inquiry to overcome some of the obstacles that often arise during investigations of the Executive Branch—indeed, House Democrats have already filed legislation to impeach Secretaries Pete Hegseth, Linda McMahon, and Robert F. Kennedy Jr.

The hearings that will be held in conjunction with these investigations create exposure that goes beyond legal liability. An engagement with the Administration that is lawful can still be brand damaging if it is portrayed as improper or as a reason for higher consumer costs. Responding to an inquiry is also expensive and disruptive. Documents and communications a company produces to Congress can surface in other forums, including in litigation. Thus, companies developing a siloed response strategy face potentially damaging consequences in the long run. House Democrats are already coordinating with state attorneys general on parallel investigations—documents produced to Congress will not stay on Capitol Hill.

4. Preparing News

Minimizing and managing exposure with a thoughtful and holistic strategy will be critical to avoiding a wave of disruptions—a subpoena from a congressional committee, spillover to a state agency, a coordinated press strategy across committees, an oversight hearing with corporate CEOs, problematic cross currents to parallel proceedings, or legislation that uses your company as its case study. Companies that have yet to do so should begin engaging with counsel to understand the facts, protect sensitive information, and shape the narrative before scrutiny arrives in earnest next year.

Here is a practical checklist to use in coordination with your outside counsel:

- **Gather the facts and map your risks under privilege.** Democrats have been transparent about the topics they intend to prioritize, and they have started many of their highest-priority

investigations already via letters from the minority. Companies that have already been contacted, or who fit the profile of those that have, should begin internal assessments now, with counsel, to surface and understand the facts. Internal reviews of administration touchpoints, pricing decisions, and deal rationale may generate sensitive documents, and whether those documents are privileged often depends on who directed the work, why it was conducted, and how it was structured. An analysis and review led by counsel in preparation for a congressional investigation and other legal risks stands on much firmer ground.

- **Have the right team in place to respond.** When a congressional letter arrives, the time for developing a response is short and pressure is high. Having your team in place is critical—including in-house and outside counsel, internal and external government affairs, and internal and external communications professionals. This group of stakeholders can begin to craft your affirmative story now, before the first letter arrives.
- **Strengthen relationships.** Companies expecting to be under intense scrutiny need to be ready to deliver their messages to allies and skeptics alike, both inside and outside of Congress. Congressional investigations are indeed political and often play out in public. Your messages today should be developed with an array of audiences in mind, especially with the 2028 presidential election at the starting gate.

Jenner & Block’s bipartisan Congressional Investigations team remains ready to help clients assess their exposure, structure privileged reviews, and respond to congressional inquiries as they arise.

The seminal handbook for congressional investigations, *When Congress Comes Calling*, which was updated in 2025 by Jenner’s team in partnership with the Project on Government Oversight (POGO) and guest editors comprising Democratic and Republican experts who have held senior positions across the legislative and executive branches, also offers information essential for effectively navigating congressional oversight.

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