

# Businesses Eye Spending, China, Impeachment as Congress Returns, Bloomberg Law

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By: Sam Ungar, Kyle Tramonte

The business community has much to watch as Congress returns from August recess. House Republicans will try to wrangle their narrow majority to pass contentious government funding legislation that will almost certainly be rejected by the Senate, while at the same time continuing to push investigations and new policies focused on China and launching a potential impeachment inquiry of President Joe Biden.

## Appropriations

Current federal spending levels are set to expire Sept. 30, giving Congress only a short window to debate and enact appropriations bills needed to keep the federal government running.

While the debt limit deal struck between the Biden administration and House Speaker Kevin McCarthy (R-Calif.) included an agreement on spending levels for fiscal year 2024, the House Republican leadership—as part of an agreement with some members of its own caucus—allocated spending in the annual appropriations bills at a substantially lower level than that agreement provided.

Meanwhile, some Republicans, including members of the Freedom Caucus, have inserted conservative policy provisions into the spending bills—including restrictions on access and funding for medication abortion, gender-affirming care, and federal diversity initiatives. These moves signal a continued Republican focus on pursuing culture war issues heading into the 2024 election.

The policy provisions that have been inserted by the Freedom Caucus are likely to set up a stalemate with the Democratic-controlled Senate, which has written its own versions of the appropriations bills on a largely bipartisan basis without the House's policy riders.

Unless McCarthy and Senate Majority Leader Chuck Schumer (D-N.Y.) reach a short-term funding deal to give the chambers time to reach a compromise, the government will shut down at the end of

the month. Any companies or individuals that rely on or intend to utilize federal services or funding—including contractors—should plan accordingly.

## **Competition With China**

At the same time, both Congress and the Biden administration are expected to continue their work to address US competition with China. During the August recess, Biden issued an executive order restricting US investment in Chinese companies working on advanced technologies.

Just weeks later, Commerce Secretary Gina Raimondo traveled to Beijing and cautioned officials there that while the US was not seeking to “decouple” from China, American businesses were increasingly describing the country as “uninvestable” based on complaints about worsening conditions, including unexplained police raids on consulting firms.

While lawmakers generally welcomed the president’s executive action, some members of Congress maintain that the Biden administration must go even further.

In an op-ed responding to the president’s capital outflows order, Chairman Mike Gallagher of the Select Committee on Strategic Competition with the Chinese Communist Party argued that Congress must act and should consider even more comprehensive restrictions on US investments in whole sectors of the Chinese economy.

House Republicans may be inclined to push forward investigations of relevant US companies to support this legislative initiative, so those in the private sector who fall within one of Gallagher’s areas of interest should be prepared for potential Committee interest.

## **Impeachment Inquiry**

Meanwhile, Congress’s return to the Hill is rife with chatter that McCarthy and his caucus may attempt to launch a formal impeachment inquiry of Biden related to his son’s overseas business dealings.

Both the House Judiciary and Oversight Committees have conducted investigations into Hunter Biden and the Biden family during the 118th Congress, including whether the president knowingly participated in his son’s business deals with foreign entities.

Reporting indicates that McCarthy may attempt to leverage his support for an impeachment inquiry in exchange for the Freedom Caucus’ support for a short-term spending extension that would keep the government open. It’s unclear, however, if McCarthy has sufficient support in his caucus for a formal impeachment inquiry.

Though the Constitution assigns the sole power of impeachment to the House, the chamber doesn’t have an official procedure for starting an inquiry. Typically, it begins with a resolution that authorizes

a committee to conduct such a probe, although some reports indicate that the speaker may simply declare that an inquiry is underway—as then-Speaker Nancy Pelosi did in 2019.

And impeachment inquiries are usually conducted by the Judiciary Committee. However, President Donald Trump’s 2019 impeachment inquiry was largely conducted by the Intelligence Committee. The House may also delegate additional authority to the investigating committee beyond those provided for ordinary oversight investigations, including authorization for committee counsel to take depositions without members present.

There are other differences between impeachment inquiries and traditional congressional oversight efforts. Impeachment investigations typically garner increased public attention, with well-attended and widely viewed hearings (as in the 2019 and 2021 impeachments of Trump).

But there’s also evidence that the House’s investigative powers are “amplified” when deployed in an impeachment investigation. The House could make legal arguments that any impeachment inquiry is entitled to demand even broader access to information from the Executive Branch than a traditional oversight investigation might subpoena, including information that might otherwise be protected by grand jury secrecy rules or executive privilege.

And if the Biden administration challenges the scope of the House’s inquiry, the dispute may well end up in the courts.

For companies and investors who have concerns about the impact of impeachment on macroeconomic stability, precedent shows that there’s no clear correlation between the two. In this case, it’s likely that markets may not be impacted at all, as investors will understand that the Democratic-controlled Senate wouldn’t vote to remove the president.

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## **Related Attorneys**



**Sam Ungar**

Partner

[sungar@jenner.com](mailto:sungar@jenner.com)

+1 202 637 6382



**Kyle Tramonte**

Associate

[ktramonte@jenner.com](mailto:ktramonte@jenner.com)

+1 202 639 3894

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