

Corporations Should Prepare to Go Under Congressional Microscope, *Bloomberg Law*

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House and Senate leaders back for the second session of the 118th Congress are focused on avoiding a partial government shutdown and whether to provide additional funds for Ukraine, Israel, and the border.

Meanwhile, congressional investigators are navigating impeachment proceedings against President Joe Biden and other administration officials. Business leaders and corporate executives, however, won't avoid Congress' attention.

With dim prospects for major legislative breakthroughs that might appeal to voters, the best opportunities to deliver electoral messaging may come during high-profile oversight hearings with corporate targets.

As the presidential election approaches, investigative committees will issue findings and hold hearings to wrap up high-profile matters involving the private sector, even as the hearing calendar and House floor schedule begin to reflect impeachment and contempt proceedings.

In 2023, congressional investigators continued directing document requests and subpoenas to the private sector—where corporate targets have fewer options than their executive branch counterparts to resist and more reasons to cooperate.

Committee leaders pledged to hold certain industries accountable at the outset of the 118th Congress. The first session made clear that witnesses from outside government are fair game for oversight and policy questions that may have been previously directed to the executive branch. The second session is an opportunity for investigators to show voters the results of that oversight work.

For example, environmental, social, and governance policies—which have been a target for House Republicans since the outset of the 118th Congress—will continue to receive scrutiny from the House Financial Services and Judiciary Committees.

The Financial Services Committee has a dedicated ESG working group that put executives at proxy advisory firms on notice that invitations to testify at a hearing may be forthcoming in an interim

report in June 2023. Meanwhile, the Judiciary Committee is examining ESG policies pursuant to its jurisdiction over antitrust laws.

Congress will likely also continue its focus on China, with bipartisan interest driving the agenda. The House Select Committee on the Chinese Communist Party is facing unique pressure to conclude its work given the possibility it will disband at the end of the 118th Congress.

The select committee signaled a transition from member education and policy development toward higher-profile engagements, including possible testimony from executives at multinational companies subject to the select committee's oversight during the past year.

The select committee focused on restricting US investment in Chinese companies, and other financial ties between US businesses and the CCP and the Chinese military. Company leaders may be called to testify publicly about those ties in 2024.

While the Democrat-controlled Senate's priorities and political agenda differ from the Republican-controlled House, businesses can similarly expect Senate committees to move to wrap up high-profile investigations leading into an election that could see the chamber's partisan control flip.

Tech companies in particular should watch the Senate Judiciary Committee, which has made children's online safety legislation a priority into this year. Top tech CEOs are slated to appear at a high-profile hearing on children's online safety Jan. 31, which likely will spur renewed focus on legislative proposals and could generate follow-up information requests and further examination of those companies' online privacy and safety policies.

The Senate Budget Committee is also set to continue its series of hearings focusing on climate change into 2024, which could see additional executives from the fossil fuel industry appear before the committee following an exchange of letters between committee leaders last month.

Other committees with long-running investigations, such as the Senate Finance Committee; the Senate Health, Education, Labor and Pensions Committee; the Senate Commerce Committee; and the Senate Permanent Subcommittee on Investigations, may look to finalize their work and issue reports with findings in the coming months on issues including banking regulations and labor rights.

Expect a flurry of investigative reports and hearings from House and Senate committees in July, before members leave for August recess, and again in September, before members return to their districts to campaign full-time in October.

Because subpoenas issued by House committees expire in January 2025 at the end of this Congress, any ongoing compliance disputes will come to a head during that period, which adds the possibility of contempt proceedings to the already-busy 2024 oversight agenda.

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