

5 Areas Congress May Investigate After GOP Election Wins

By **Edward O'Callaghan** and **James Mandolfo** (November 13, 2024, 3:38 PM EST)

The Republicans secured a decisive victory this election cycle. In less than three months, there will be significant change in the executive branch and in Congress. Given the results, we expect an unprecedented uptick in congressional investigations next year in five key areas.

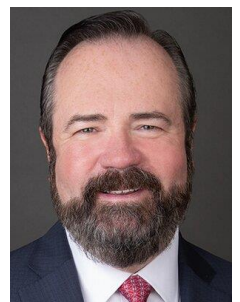
We base these projections on recent changes in political power, and policy issues raised by members and committees. The warning signs are clear: The new Congress will not only conduct oversight of federal programs, but there also will be significantly more investigations of private companies, testimony sought from senior executives and demands made for internal corporate document productions.

During the 118th Congress, a single committee, the House Committee on Oversight and Accountability, issued over 50 subpoenas and 600 investigative letters. Taking into account the dozens of standing committees, select committees and task forces expected in the 119th Congress, plus active members' offices in the U.S. House of Representatives and U.S. Senate, the total number of requests and subpoenas from the upcoming Congress will likely be staggering compared to prior years.

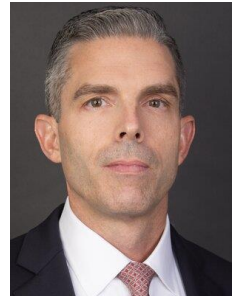
The new Congress will begin with a flurry of subpoenas, hearings and depositions. Members initiate these high-profile investigations to promote legislative solutions regarding various policy concerns and address newsworthy issues that constituents follow. But, they also tend to raise the political profile of members, advance those members' careers, develop fundraising opportunities, and drive notoriety and social media attention.

Unprepared companies and executives at the center of a committee's investigation can often become collateral damage and face additional scrutiny from regulatory agencies. Congressional investigations frequently run parallel with complex prosecutions by the U.S. Department of Justice, the U.S. Securities and Exchange Commission, the Commodity Futures Trading Commission, inspector generals' offices, and other federal and state regulators. The regulatory overlap with committee inquiries requires careful navigation of each agency's request and a deep understanding of how Congress operates.

We anticipate that Congress will focus on five key industries and policy issues in the beginning of 2025. Our analysis relies upon legislation and policies from the last term, the frequency of criminal and regulatory enforcement actions, and the political parties' upcoming agendas.



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Although not an exhaustive list, the investigations Congress will likely prioritize include the following.

1. Ukraine Aid and Defense Contractors

Since February 2022, Congress has appropriated over \$170 billion in taxpayer dollars to assist Ukraine in defending itself against Russia. Many Republicans in the House and Senate voted against the appropriations in 2024, and those who opposed such funding may hold hearings focusing on potential fraud and waste associated with the spending. These investigations could include oversight of defense contractors who have significantly profited from the funding.

Publicizing the investigations related to the Ukrainian aid package will potentially reduce its public popularity and curb calls for more aid. Notably, Democrats have also raised concerns about defense contractors profiting from the appropriations, potentially leading to bipartisan hearings and investigations to fully account for the billions of dollars spent on the Ukraine war.

2. Cryptocurrency

The cryptocurrency industry garnered bipartisan support last Congress, and the industry became one of the 2024 political cycle's fastest growing and most powerful fundraisers. Last year, efforts to pass meaningful legislation to regulate the industry fell short, and the SEC continued to pursue an aggressive enforcement campaign against crypto companies for their financial activity in the U.S.

New leadership in the White House could bring clarity to an unsettled market, but that will certainly take time. Until then, Congress will seek further input from leaders in the industry at public hearings on the complex legal issues, entertain briefings with senior executives, and demand internal documents to fully understand how to craft legislative solutions. Congressional committees will also further assess the proper roles of the SEC and the CFTC in regulating the cryptocurrency market.

3. Financial Institutions and Artificial Intelligence

Congressional staff and members will prioritize gaining access to suspicious activity reports from the U.S. Department of the Treasury to guide their investigations.

In several high-profile matters in the last Congress, including both the Hunter Biden investigation and an **investigation** examining potentially illicit financial activity linked to campaign contributions, committees have sought suspicious activity reports to identify bank accounts and corporate transactions, study anti-money laundering documents, and read internal correspondence prepared by compliance employees.[1]

4. Healthcare and Private Equity Firms

The DOJ's increased enforcement of the False Claims Act, with a particular focus on private equity firms' role in financing and managing healthcare companies, has drawn scrutiny from lawmakers. As the DOJ ramps up healthcare fraud enforcement actions, with Medicare and Medicaid funding often at issue, committees will pursue information from private equity firms regarding their involvement in causing any false claims to be submitted to the federal government, and evaluate whether management decisions have affected patient care.

Additionally, Congress' recent oversight of pharmacy benefit managers suggests that there will be a bipartisan focus on reducing overall healthcare costs, whether attributable to fraud or unpopular business practices.

5. China and Foreign Influence

In the last Congress, several committees initiated a host of different investigations analyzing China's influence in the U.S. The policy topics ranged from the use of Chinese technology to the purchase of farmland. Congress will continue holding hearings and debriefings, investigating Chinese companies to better understand their foreign influence in the U.S.

In addition to China, both political parties have raised concerns about foreign political influence in U.S. elections. For instance, members have shown strong interest in investigating tax-exempt organizations that received foreign donations and also contributed money to political action committees.

Conclusion

These types of investigations could pose unique public-facing issues, as they could lead to published reports and televised hearings, disclosure of companies' internal documents on a congressional committee's website without notice, and legal complications with ongoing parallel proceedings.

In preparing for congressional oversight, it is key for companies and senior executives to understand the particular members' political goals and the limits of Congress' legal authority. Many requests and even subpoenas can be nonpublic, document productions can be narrowed in response to a subpoena, and senior executives can often avoid public and private testimony as part of negotiations with congressional staff.

Given the potential reputational harm of mishandling a congressional investigation, rather than waiting for the new Congress to be sworn in, companies should begin to prepare for a busy term now.

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Disclosure: Mandolfo, in his role as general counsel and chief counsel of investigations for the Committee on Oversight and Accountability during the 118th Congress, led many of the committee's initiatives around its subpoenas and investigative letters.

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[1] See here <https://www.pbs.org/newshour/politics/republicans-are-using-financial-records-to-investigate-hunter-biden-heres-how>; and here <https://langworthy.house.gov/media/press-releases/congressman-langworthy-and-chairman-comer-launch-investigation-potential-fraud>.