

Congressional Investigative Priorities Emerge

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With Democrats controlling both the House and Senate for the first time since 2011, businesses can expect new congressional scrutiny on a number of fronts. While cabinet confirmations and such major legislative proposals as the new administration's infrastructure plan will command more headlines, investigations and private sector oversight also remain priorities.

House committees have issued numerous requests for information from private businesses, including in investigations targeting tech companies and social media platforms, pharmaceutical and health care companies, e-cigarette makers, meatpacking plants, investment firms, internet service providers and energy suppliers. The focus of these investigations includes fraud related to COVID-19, improper labeling, advertisement practices, the sale of personal data, diversity and inclusion initiatives, and products liability.

Hearings in the House provide additional insight into investigative priorities. During the last few months, the House has held hearings on several topics affecting the private sector, such as the fraudulent collection of loans under COVID-19 relief programs and other pandemic-related fraud, discriminatory lending practices, market volatility and short selling, misinformation on social media, antitrust reform and modernization of energy development laws.

The Senate has been considerably slower to begin formal investigations, as Democrats take over Senate committees for the first time in six years. While the committees organize, hire staff, and develop their legislative and oversight agendas, Senate Democrats so far have issued only one publicly disclosed letter to a private entity request, seeking information from a major investment bank.

Some Senate Democrats' priorities involving the private sector may be gleaned from the focus of committee hearings held to date, including: customs enforcement, supply chains and worker protections; the effect of the U.S. Tax Code on domestic manufacturing; antitrust reform and competition policy; the impact of the financial system and Wall Street on the racial wealth gap; incentives for financial institutions to take action against climate change; nuclear energy, innovative transportation technologies and emissions reductions; and the high price of prescription drugs. The hearings suggest that Senate Democrats are particularly interested in issues related to the environment, the pharmaceutical industry and antitrust. These concerns are likely to translate into investigations as the session progresses.

Overlap With the Biden Administration

Congressional investigations are also likely to arise from Biden administration priorities, and these may present complex challenges for private actors. President Biden signaled throughout his campaign that his administration would act on such issues as climate change, affordability of health care, and regulation of financial services and Big Tech. The administration has directed the attorney general to prioritize environmental justice (see "[Climate Change a Focus of Environmental Policy, Infrastructure Plan](#)"); instructed the Federal Trade Commission (FTC) and Consumer Financial Protection Bureau to work with law enforcement to combat fraud and predatory practices related to COVID-19; signaled a tough stance regarding False Claims Act and antitrust investigations; and appointed Big Tech critics to the FTC and positions in the White House. (See "[Antitrust Enforcement Expected To Intensify](#).")

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Conclusion

Oversight of the private sector has ramped up over the first 100 days of the 117th Congress. Companies should not mistake the Senate's slower initiation of investigations for a lack of commitment to goals shared with House Democrats. With Democrats controlling both chambers of Congress and the executive branch, companies can expect more probes from both the House and Senate, and should monitor press releases and letters released by congressional committees. Remaining informed of committee actions can assist companies in understanding industrywide priorities and, when necessary, updating compliance practices.