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Compliance Update

Congressional Oversight and the 2026 Midterm Elections: Considerations for Financial Services Companies

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With the midterm elections a month away, many forecasters expect Democrats to win a majority in the House of Representatives and possibly the Senate. A change in control of either chamber would install committee chairs with the power to compel what the minority can only request, through subpoenas for documents and testimony, depositions, and hearings.

House Democrats have used their time in the minority to steadily build an oversight agenda, and control of the committees would equip them with the tools to pursue it. This will have major implications for financial services companies. Banks, securities firms, fintechs, and other financial services providers should anticipate an increase in investigative activity, much of it conducted through public letters, press releases, hearings, and staff reports.

The Members of Congress positioned to chair the key House committees have signaled their priorities over the past eighteen months through oversight letters, and these priorities continue to be refined as we near the midterms. The priorities cover a wide spectrum, from the Executive Branch's policies and actions to financial services companies' decisions with respect to consumer protection and affordability, digital assets, AI, diversity and inclusion, fraud and other financial crimes, and business with China and other jurisdictions. Even when an investigation targets the federal government, House Democrats are likely to seek relevant records from companies.

This client alert outlines potential financial services investigative priorities if there is a new Democratic majority and offers key considerations for preparing for congressional inquiries.

Financial Services Investigative Priorities

Certain inquiries Congressional Democrats sent while in the minority will likely be renewed — and expanded — if Democrats are in the majority, backed by subpoena authority. Moreover, if Congress is divided, companies could potentially face opposing investigations backed by subpoenas on the same subject.

We anticipate the following priorities by Congressional Democrats:

- **Communications with the federal government.** Companies may receive requests for communications with regulators or other federal government officials concerning key regulatory changes to the extent they were controversial, including approvals, changes to regulations, and discontinued enforcement actions.¹ They should also prepare for requests concerning activity that connects with U.S. foreign policy: for example, over the past year, several Democratic Senators, led by Senator Elizabeth Warren (D-MA), have written to banks about their potential nexus to U.S. foreign policy involving Venezuela and Argentina.² More broadly, companies that have contracted with or otherwise operationalized federal government initiatives could receive scrutiny regarding how those arrangements were made and carried out, as could financial institutions whose charters or approvals were granted over the same period.³
- **Digital assets.** House Financial Services Ranking Member Maxine Waters (D-CA), joined by other Committee Democrats, has challenged the Securities and Exchange Commission's (SEC) digital-asset enforcement posture.⁴ More broadly, companies could expect requests across a range of digital asset topics, including consumer protection, financial crime risk, charter applications, and implementation of the Guiding and Establishing National Innovation for U.S. Stablecoins (GENIUS) Act.⁵ For example, since March, Senator Warren has pressed major technology companies on planned stablecoin products and payments integrations, and the Office of the Comptroller of the Currency (OCC) on its approval of national trust charters for digital asset firms, requesting the full applications and any communications with the Executive Branch.⁶
- **Consumer protection.** House Financial Services Ranking Member Waters and Congressman Jamie Raskin (D-MD), who currently serves as the Ranking Member of the House Judiciary Committee, have objected to the changes at the Consumer Financial Protection Bureau (CFPB),⁷ and, consistent with the party's emphasis on cost-of-living issues, have more broadly criticized what they characterize as multiple federal agencies' scaled back enforcement of consumer protection laws. In addition to seeking documents from the agencies themselves, Democrats may examine bank and other financial services providers' practices in areas that they believe are no longer receiving adequate federal attention from the standpoint of identifying unfair, deceptive or abusive practices or fair lending violations. These areas may include so-called "junk" fees, mortgage servicing, small-dollar and buy-now-pay-later lending, and other fintech consumer products. Democratic Members of both chambers have sent letters to a variety of financial services companies on several of these topics over the past year.⁸
- **Changes to diversity, equity, and inclusion and related commitments.** Firms that have modified or discontinued DEI programs, supplier-diversity or community-lending commitments, or similar public pledges since January 2025 could receive questions about the reasons for and process behind those changes, as well as scrutiny of whether the companies' current practices comply with the law.⁹ Because the Administration and Congressional Republicans continue to scrutinize these same programs, companies may need to defend their decisions to investigators of both parties and should ensure that the account they give is consistent across both audiences.
- **Implementation of immigration-related guidance.** The federal government has asked financial institutions to account for immigration-related risk in their compliance programs. In May 2026, the President issued an Executive Order entitled "Restoring Integrity to America's Financial System," which noted the "national security and public safety risks caused by illicit cross-border financial activity" and stated that the federal government would not "permit risks to our financial system posed by the extension of credit or financial services to the inadmissible and removable alien population."¹⁰ In June 2026, the Treasury Department's Financial Crimes Enforcement Network, jointly with the Federal Deposit Insurance Corporation, the OCC, and the National Credit Union Administration, issued an advisory that encourages banks to evaluate whether a customer's use of an ITIN in lieu of a Social Security number may be a relevant risk factor and lists eighteen red

flags for suspicious activity reporting.¹¹ In response, Congressional Democrats could examine how financial services providers implemented this guidance, including whether it produced account closures or de-risking based on immigration status or national origin.

- **Artificial intelligence in financial services.** In July 2026, Congresswoman Waters issued an expansive request for information (RFI) on AI risks in the financial marketplace.¹² The RFI sought input on the benefits and risks of AI in the financial marketplace, how existing federal laws and regulations apply, potential regulatory gaps, and possible reforms toward a modernized federal framework for AI in financial services. The record developed through the RFI could inform hearings and document requests in the next Congress. Senator Warren, who could potentially take the gavel of the Senate Banking Committee should the Senate flip, has also asked one financial services company whether its AI underwriting program is subject to controls against bias — a question any institution deploying AI in credit or underwriting decisions may receive.¹³
- **Capital requirements.** After federal banking regulators reduced bank capital requirements, Senator Warren and Senator Bernie Sanders (I-VT) wrote to large banks challenging their authorization of major stock buybacks and dividend increases, asking how “excess capital” was deployed and whether it would fund executive bonuses.¹⁴
- **National security, sanctions, and illicit finance.** These areas draw sustained, often bipartisan, interest: scams targeting consumers, Bank Secrecy Act/anti-money laundering (BSA/AML) deficiencies, and sanctions evasion, including involving digital assets. Senator Warren, Congresswoman Waters, and Senator Richard Blumenthal (D-CT) have sought information from financial services companies concerning scams involving peer-to-peer payments.¹⁵ The Republican staff of the House Financial Services Committee recently issued a report titled, “Fighting Back,” citing FTC findings attributing \$15.9 billion in reported 2025 fraud losses — and estimated actual losses near \$196 billion — largely to transnational criminal organizations operating “scam centers” in Southeast Asia.¹⁶
- **China.** China also remains a sustained, bipartisan focus of Congressional attention. In May 2026, the House Select Committee on the Chinese Communist Party released a report, titled “Bankrolling Beijing,” examining the role of U.S. financial institutions in what it described as capital-raising transactions for Chinese companies that the Committee identified as having ties to the Chinese military or forced labor. The report signals continued congressional attention to institutions’ due diligence and risk assessments in transactions involving China-linked counterparties.¹⁷ We expect continued attention to these topics regardless of which party holds the gavel, particularly if the China Select Committee is reauthorized in the new Congress.

Key Takeaways

Financial services companies should consider what steps they could take to prepare for a likely uptick in congressional oversight. These steps could include identifying potential vulnerabilities, preparing or updating responses and supporting evidence, and strengthening compliance programs.

- **Identify vulnerabilities and increase monitoring.** Map your firm’s exposure to the priorities identified in this memorandum, and track press releases, letters, and staff reports of congressional members that preview likely areas of inquiry. Companies weighing significant initiatives — charter applications, acquisitions, or new product lines in controversial areas — should build congressional oversight risk into their assessments and ensure that positions taken today are defensible to investigators of either party.

- **Treat congressional inquiries as a distinct risk.** Congressional inquiries differ fundamentally from private litigation and agency investigations, and strategies that work in those settings can backfire. And because congressional investigations often take place in public view, and can culminate in damaging hearings or staff reports (and sometimes the release of sensitive company-provided documents and information), the reputational consequences of an inquiry can exceed its legal consequences. Companies should be prepared with a playbook and advisors that can navigate these unique risks. They should also stay abreast of judicial developments that have curtailed congressional investigative authority in certain respects. For example, while Congressional committees have historically treated the honoring of attorney-client privilege as discretionary, recent judicial decisions have strengthened the ability to assert the privilege in negotiations with committees.¹⁸
- **Develop messaging and key narratives for anticipated scrutiny.** For any area of vulnerability, undertake a privileged process to prepare or update a responsive narrative and talking points, along with key facts and evidence, and pressure test their adequacy. If needed, use this time to develop stronger facts on the ground and more persuasive responses.
- **Strengthen compliance programs.** For many areas of inquiry, demonstrating strong governance, compliance procedures, and documentation is among a company's best defenses. Ensure that there is strong compliance surrounding particularly sensitive areas, such as use of AI, digital assets, prediction markets, fraud and financial crimes, and fair lending.

Our Congressional Investigations practice will continue to report on developments on Capitol Hill and the broader investigations environment.



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- ¹ See, e.g., Senate Committee on Banking, Housing, and Urban Affairs Democrats (June 30, 2026), [available here](#).
- ² Senate Committee on Banking, Housing, and Urban Affairs Democrats, "Warren, Wyden, Whitehouse, Welch and Schatz Launch Probe Into Big Banks' Role in Trump Administration's Scheme to Control Venezuelan Oil Profits" (Jan. 16, 2026), [available here](#); Senate Committee on Banking, Housing, and Urban Affairs Democrats, "Warren Presses Big Bank CEOs on Plans to Participate in President Trump's Bailout of Argentina at the Expense of American Taxpayers" (Oct. 24, 2025), [available here](#).
- ³ See e.g., Senate Committee on Banking, Housing, and Urban Affairs Democrats, "Warren Deepens Probe of Seemingly Corrupt Approval of Bank Charter for Trump's Billionaire Friends in Silicon Valley" (Apr. 23, 2026), [available here](#).
- ⁴ See, e.g., House Financial Services Committee Democrats, "Ranking Member Maxine Waters, Reps. Casten and Sherman, Demand Answers from SEC Chair Atkins on Crypto Enforcement Rollbacks" (Jan. 15, 2026), [available here](#); see also House Financial Services Committee Democrats "Ranking Member Maxine Waters Urges Chairman Hill to Hold Long-Overdue SEC Oversight Hearing Demanding Answers from Chairman Paul Atkins" (Dec. 29, 2025), [available here](#).
- ⁵ See Jonice Gray, Kari Hall, and Brian Stief, Get Smart: Navigating the Genius Act's Regulatory Gaps, *Law360* (March 17, 2026), [available here](#).
- ⁶ Press Release, Senate Committee on Banking, Housing, and Urban Affairs Democrats (Apr. 14, 2026) (letter concerning a planned payments product and possible stablecoin issuance), [available here](#); Press Release, Senate Committee on Banking, Housing, and Urban Affairs Democrats (May 7, 2026) (letter concerning a technology platform's stablecoin integration), [available here](#); Senate Committee on Banking, Housing, and Urban Affairs Democrats, "Warren Presses OCC on Approval of Special Charters for Crypto Companies Seeking to Act Like Banks While Evading Bank Rules" (May 19, 2026), [available here](#).

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- ⁷ House Financial Services Committee Democrats, “Ranking Members Maxine Waters and Jamie Raskin Demand Answers from AG Bondi on Trump Administration’s Latest Attempt to Sabotage Consumer Protection and Let Financial Fraudsters Walk Free” (Dec. 18, 2025), [available here](#).
 - ⁸ See, e.g., Press Release, Senate Committee on Banking, Housing, and Urban Affairs Democrats (May 28, 2026) (letter to a fintech rewards company concerning consumer harms), [available here](#); Senate Committee on Banking, Housing, and Urban Affairs Democrats, “Warren, Blumenthal, Duckworth, Hirono Probe Credit Reporting Companies on Buy Now Pay Later Loan Reporting” (May 6, 2026), [available here](#); Senate Committee on Banking, Housing, and Urban Affairs Democrats, “Warren, Duckworth, Kim, Blunt Rochester Press Credit Reporting Companies on Abandoning Consumers As Trump’s CFPB Looks the Other Way” (May 4, 2026), [available here](#); Senate Committee on Banking, Housing, and Urban Affairs Democrats, “Warren, Booker, Blumenthal Press Twenty-One Credit Unions on Predatory Overdraft Fees Amid Trump’s Illegal Attempt to Shut Down the CFPB” (Dec. 2, 2025), [available here](#); Senate Committee on Banking, Housing, and Urban Affairs Democrats, “Warren, Blumenthal, Sanders Press Twenty-Five Banks on Predatory Overdraft Fees As Trump Enables Them by Repealing Fee Cap” (Sept. 2, 2025), [available here](#); Press Release, House Financial Services Committee Democrats (Aug. 29, 2025) (letter to a large credit union concerning overdraft fees), [available here](#).
 - ⁹ House Financial Services Committee Democrats, “Ranking Member Maxine Waters Leads Democratic Members in Urging Financial Services Agencies to Defy Trump’s Illegal Anti-DEIA Order and Uphold Legally Mandated Efforts” (Feb. 14, 2025), [available here](#).
 - ¹⁰ Exec. Order No. 14406, Restoring Integrity to America’s Financial System (May 19, 2026).
 - ¹¹ FinCEN, FDIC, OCC & NCUA, Advisory FIN-2026-A002 (June 2026).
 - ¹² House Financial Services Committee Democrats, “Ranking Member Waters Launches Request for Information on AI Risks and Modernization in Financial Services” (July 7, 2026), [available here](#).
 - ¹³ Press Release, Senate Committee on Banking, Housing, and Urban Affairs Democrats (Feb. 18, 2026) (letter to a private flood insurer concerning its underwriting model and AI-related controls), [available here](#).
 - ¹⁴ Senate Committee on Banking, Housing, and Urban Affairs Democrats, “Warren and Sanders Press Big Bank CEOs on Padding Executives’ Pockets, Undermining Financial Stability After Trump Admin Reduced Capital Requirements” (Sept. 8, 2025), [available here](#).
 - ¹⁵ Press Release, Senate Committee on Banking, Housing, and Urban Affairs Democrats (July 2, 2025) (letter to banks that co-own a peer-to-peer payments network concerning social-media scams), [available here](#).
 - ¹⁶ House Financial Services Committee Majority Staff, Fighting Back: A Policy Framework for Combating the Rise of Financial Fraud & Scams (July 22, 2026), [available here](#).
 - ¹⁷ House Select Committee on the Chinese Communist Party, Bankrolling Beijing: U.S. Banks Raised Billions for a Chinese Military Company (May 21, 2026), [available here](#).
 - ¹⁸ In *United States v. Navarro*, the D.C. Circuit affirmed a contempt-of-Congress conviction, holding that only the President or an authorized designee may invoke executive privilege in response to a congressional subpoena. See *United States v. Navarro*, No. 24-3006 (D.C. Cir. July 21, 2026), [available here](#). However, the panel noted in *dicta* that “recipients of congressional subpoenas ‘retain common law and constitutional privileges’ against governmental demands for the disclosure of requested information.” The panel cited the Supreme Court’s 2020 decision in *Mazars*, which noted that it has “long been understood” that recipients of congressional subpoenas continue to hold these privileges.