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GIBSON DUNN



Congressional Investigations | Public Policy Update November 6, 2026

Congressional Investigations After the 2026 Midterms: What the Results Mean for the Private Sector

In this update, we discuss the key features of the post-election landscape and the steps companies can take now to prepare. We recommend that preparation begin during the lame-duck session, before the first letters from the new Congress arrive in January.

I. Introduction

Control of Congress determines who holds the gavels, who sets the hearing schedule, and who can issue a subpoena. For that reason, the Election Day results matter for companies and their executives. Democrats have won control of both the House of Representatives and the Senate.[1] As of this writing, Democrats are projected to hold at least 250 House seats and at least 54 Senate seats.[2] Republicans entered Election Day with narrow majorities of 219–214 in the House and 53–47 in the Senate.[3]

While bipartisan legislation may be possible in some areas, the veto and the Senate filibuster will limit how much of the Democratic agenda becomes law. Since oversight, however, requires neither the President's signature nor sixty votes, investigations are the tool the new majorities can use most freely and most quickly.[4] Democratic leaders have said they will use their new subpoena power to investigate the Administration, the President's family, and their business ventures.[5] The 120th Congress will mark a sharp shift from the 119th. Over the past two years, Republican majorities focused much of their investigative attention on the private sector and on

institutions and causes that Republicans associated with the political left. The new Democratic majority will target the Executive Branch directly, as well as private companies. Companies will be drawn in both as targets in their own right—particularly companies that had business interactions with the Administration, paid for presidential projects, or benefited from the Administration's influence—and as substitute sources of information when the Administration refuses to produce documents, under claims of executive privilege or for other reasons. Beyond these Administration-focused investigations, companies may also be impacted by inquiries into other topics in which Democrats have expressed interest, including affordability, corporate corruption, artificial intelligence and data centers, algorithmic pricing, mass surveillance, DEI and civil rights policies, and immigration.

Below, we discuss the key features of the post-election landscape (Part II) and the steps companies can take now to prepare (Part III). We recommend that preparation begin during the lame-duck session, before the first letters from the new Congress arrive in January.

II. Key Observations Resulting from the Election Outcome

Four features of the post-election landscape will shape congressional investigations in the 120th Congress: (A) who holds chamber and committee leadership positions; (B) the investigative groundwork that many incoming chairs are already laying from their ranking member positions; (C) the rules package that the new House majority will adopt in January and the rules that will be adopted by each Senate and House committee; and (D) the Executive Branch's posture toward congressional requests, which will likely make private parties a key source of the information Democratic investigators want.

A. Who Gets the Gavels: Committee Landscape and Likely Chairs

Chamber leadership. House Democrats scheduled leadership elections for November 18 and 19.[6] Hakeem Jeffries (D-NY) is the presumptive Speaker and has framed his priorities for the new Congress around accountability and affordability;[7] the presumptive House Majority Leader is Katherine Clark (D-MA).[8] Chuck Schumer (D-NY) is the presumptive Senate Majority Leader and has similarly said that his caucus's first priority will be addressing the high costs facing American families and that its second will be to "go after the corruption" in the Administration;[9] the presumptive Senate Whip is Brian Schatz (D-HI).[10]

Likely House chairs. Chairmanships for many House committees will move to the current Democratic ranking members, though some chairmanships may be contested. Committee leadership roles are subject to approval by the Democratic Steering and Policy Committee before the full caucus weighs in.[11] Based on current ranking members, the likely chairs of the key investigative committees are:

Committee	Likely Chair
Oversight and Government Reform	Robert Garcia (D-CA)
Judiciary	Jamie Raskin (D-MD)
Energy and Commerce	Frank Pallone (D-NJ)
Financial Services	Maxine Waters (D-CA) (contested)
Ways and Means	Richard Neal (D-MA)
Education and Workforce	Robert “Bobby” Scott (D-VA) (contested)
Armed Services	Adam Smith (D-WA)
Homeland Security	Bennie Thompson (D-MS)
Foreign Affairs	Gregory Meeks (D-NY)
Select Committee on the Chinese Communist Party (SCC)	Ro Khanna (D-CA)

And, as noted, not every gavel is settled. For example, Rep. Waters and Rep. Scott each face challenges for the chairmanships of Financial Services and Education and Workforce, respectively. Rep. Sean Casten (D-IL) has announced a challenge to Rep. Waters, Rep. Bill Foster (D-IL) has reportedly weighed one,[12] and Reps. Jahana Hayes (D-CT) and Suzanne Bonamici (D-OR) are running against Rep. Scott.

The incoming chairs have been candid about their agenda. Rep. Garcia has identified four areas for immediate action: alleged corruption involving the President and his family, the conduct of ICE and the Department of Homeland Security, corporate corruption, and the Jeffrey Epstein files. On the corporate side, he said that “anyone who has been in bed with the Trumps” will have to answer the committee’s questions.[13] Rep. Raskin has similarly described corruption at the heart of the presidency as “a civic emergency.”[14]

A leading priority is what Democrats describe as Administration corruption, a category they define broadly to reach entities that made deals with the Administration, paid for presidential projects, benefited from the Administration’s influence, or did business with members of the Administration or the President’s family. In fact, oversight of the Trump Administration is being touted by hopeful chairs seeking to hold committee gavels: Rep. Frank Pallone (D-NJ), the likely incoming chair of House Energy and Commerce, said in a statement the day after the election that “[t]he days of Trump getting a free pass are over as Democrats will investigate the widespread and blatant corruption that’s ripping off the American people.”[15]

Beyond investigating the Trump Administration, Democrats are likely to focus on topics such as corporate corruption and AI. Indeed, 60 percent of the ads ran by House Majority PAC—the primary Democratic super PAC spending on House races—mentioned corruption, and Democrats overall spent about $173 million on ads about corruption this cycle.[16] They will likely pursue this issue through both investigations and legislation, and may attempt to pass ethics legislation this coming Congress. On AI, Rep. Greg Casar (D-TX), chair of the Congressional Progressive Caucus, said on election night that AI company CEOs "should be called to testify under oath," and he has said he is open to using subpoenas to compel their appearance.[17] Additional investigative priorities include social media and child safety, algorithmic and surveillance pricing, data centers, rollbacks of corporate DEI and civil rights policies, cryptocurrency and prediction markets, DHS and immigration contractors, merger approvals, and Jeffrey Epstein-related matters.[18]

The Select Committee on the CCP ("SCC") and a potential AI select committee. The House renewed the SCC for the 119th Congress and broadened its jurisdiction, and the SCC has historically pursued its investigations on a bipartisan basis.[19] Under Democratic leadership, the SCC's focus would likely include AI, offshoring to China, supply chain dependence, the underwriting of Chinese IPOs, Chinese-affiliated companies operating in the United States, and chip sales to China. It is, however, possible that the new majority eliminates the SCC or merges its jurisdiction into a new select committee on artificial intelligence that Democrats have been discussing.[20] Not all Democrats favor the idea. Rep. Pallone, whose Energy and Commerce Committee has primary jurisdiction over much of AI policy, has said he is concerned that a select committee on AI "would only further delay legislation."[21] Whether a new artificial intelligence committee is created, and what jurisdiction it receives, will be resolved in the House rules package in January.

Likely Senate chairs. The Senate's lead investigative panels likely will have the following chairs:

Committee	**Likely Chair**
Finance	Ron Wyden (D-OR)
Banking, Housing, and Urban Affairs	Elizabeth Warren (D-MA)
Judiciary	Sheldon Whitehouse (D-RI)
Homeland Security and Governmental Affairs	Maggie Hassan (D-NH)
Permanent Subcommittee on Investigations (PSI)	Richard Blumenthal (D-CT)
Commerce, Science, and Transportation	Maria Cantwell (D-WA)
Health, Education, Labor, and Pensions	Bernie Sanders (I-VT)

Senator Sherrod Brown, who served for a decade as the top Democrat on the Senate Banking Committee before losing his 2024 reelection bid, may attempt to reclaim his seniority and, while he is unlikely to become chair of the Banking Committee, he may seek another gavel.[22]

The Democratic majority will reinvigorate efforts by senators historically active in investigations, such as Senators Blumenthal, Wyden, Warren, Whitehouse, and Sanders. For example, Senator Blumenthal has said Democrats will use PSI's subpoena power, and his subcommittee has a history of bipartisan reports on banks and money laundering.[23] He has also said that, with subpoena power, he would seek sworn testimony about the agreements law firms struck with the Administration, including from the former chairman of Paul Weiss.[24] Senator Wyden said in a statement on November 4, 2026, that he would bring executives of major financial institutions, insurers, and pharmaceutical companies before the Senate Finance Committee to investigate how they have "worked hand-in-hand with Trump to rip off American families."[25] Senator Maggie Hassan (D-NH), who is in line to chair the Homeland Security and Governmental Affairs Committee, reportedly has spent the past year assembling an investigative team with experience in the White House, DHS, and HHS.[26] Despite sharp partisan divides, bipartisan investigative activity remains possible in the Senate, particularly regarding cybersecurity threats, artificial intelligence, and China.[27]

B. Ranking Member Letters Will Keep Coming Between Now and January

Several likely incoming chairs in both the House and the Senate have already sent investigative letters to private parties, some with document preservation requests. These are likely road signs indicating where Committees may travel in the coming Congress. For example:

- On October 24, 2025, Senate PSI Ranking Member Blumenthal sent letters to donors to the White House ballroom project.[28] A year later, on October 20, 2026, Ranking Member Blumenthal sent letters to additional donors to the White House ballroom project.[29]
- On January 7, 2026, Ranking Members Whitehouse, Wyden, Warren, Sanders, and Schatz sent letters to oil companies related to engagement with the Administration prior to military action in Venezuela.[30]
- On February 24, 2026, Senate PSI Ranking Member Blumenthal opened a preliminary inquiry into a major cryptocurrency platform, requesting records concerning reports of funds flowing through sanctioned entities.[31]
- On March 6, 2026, Senate Finance Committee Ranking Member Wyden, joined by six Senate Democrats, wrote to eleven pharmaceutical manufacturers seeking details of their most-favored-nation pricing agreements with the Administration and evidence that the agreements will produce savings for Medicaid. These followed similar letters sent by Wyden, House Energy and Commerce Ranking Member Pallone, Ways and Means Ranking Member Neal, and Education and Workforce Ranking Member Scott in December 2025.[32]
- On April 13, 2026, Ranking Members Pallone, Neal, and Scott sent letters to additional pharmaceutical companies requesting detailed information about the companies' most-favored-nation agreements with the Administration, including the drugs covered, the

pricing terms, and the company and Administration representatives who negotiated them.[33]

- On August 21, 2026, House Natural Resources Committee Ranking Member Jared Huffman sent a letter to the Trust for the National Mall requesting information on fundraising agreements and donor vetting procedures related to President Trump's White House ballroom project.[34]
- On August 27, 2026, Ranking Member Huffman sent letters to 24 corporate sponsors of Freedom 250, LLC, requesting donation information.[35]
- Between April 2025 and October 2026, Senate PSI Ranking Member Blumenthal, House Judiciary Committee Ranking Member Raskin, and Senator Schiff sent letters to law firms requesting information about the firms' agreements with the Trump Administration.[36]
- On September 27, 2026, Senators Warren, Slotkin, Merkley, Sanders, Blumenthal, and Smith sent letters to big tech companies about tax incentives and corporate subsidies for spending on AI development.[37]
- On October 22, 2026, Ranking Member Pallone sent letters to the rideshare, ticketing, travel booking, and food delivery industries seeking information about surveillance pricing.[38]
- On October 27, 2026, Ranking Members Pallone, Lofgren, and Raskin sent letters to AI companies regarding safety incidents and reporting requirements.[39]

There also has been bipartisan activity. In July 2026, Ranking Member Blumenthal and Senator Josh Hawley (R-MO) jointly pressed health insurers for records on their use of prior authorization and artificial intelligence to deny post-acute care to Medicare Advantage enrollees, building on a 2024 PSI staff report.[40] Bipartisan inquiries of that kind—including into prediction markets, surveillance, dynamic consumer pricing, and China—are likely to persist in the 120th Congress and, with Democrats setting the agenda in both chambers, may gain momentum.

C. House and Senate Committee Rules: Key Authorities to Watch

House rules. The House adopts its rules, setting the new majority's investigative toolkit, at the beginning of each Congress.[41] The 119th Congress rules package maintained the House's expansive investigative authorities, including providing that committee chairs may issue subpoenas unilaterally, with only notice to the ranking member. We expect the new Majority in the House to do the same, and possibly expand investigative authorities.[42]

Senate rules. We will also be watching whether Senate Democrats change the rules to bolster their ability to pursue their investigative and legislative priorities. For example, the Senate, unlike the House, has long hesitated to grant chairs unilateral subpoena authority; in the 119th Congress only the Senate Homeland Security and Governmental Affairs Committee and the Permanent Subcommittee on Investigations allow the chair to subpoena with notice alone to the ranking member.[43] Whether the new Democratic majority leaves that structure in place is an open question. Having spent two years unable to compel production while in the minority, Senate Democrats may be more inclined than their predecessors to expand investigative authority.

House and Senate jurisdictional overlap. Because many marquee topics fall within several

committees' jurisdiction across both the Senate and the House, companies should expect overlapping and duplicative requests from multiple chambers and committees, and should plan for consistent productions and testimony across all of them.

D. Lack of Executive Branch Cooperation Will Make Private Parties Targets

The expected dynamic. Federal agencies are likely to deny committees access to deliberative materials, as they have done across both Republican and Democratic administrations for decades, and committees will respond by seeking the same communications from the private parties on the other end of them. The Democratic priority list suggests outreach to entities that have transacted with the Administration, contributed to presidential projects, benefited from the Administration's influence, or did business with Administration officials or the President's family. For those companies, a dispute between the branches over White House records may result in a subpoena addressed to them.

Executive privilege over third-party communications. The Administration has prepared for this fight. On August 10, 2026, the Department of Justice's Office of Legal Counsel (OLC) issued an opinion concluding that executive privilege can shield the President's communications with private advisers—individuals outside the Executive Branch—so long as the communications relate to official presidential decisionmaking, involve or reflect communications with the President or his direct advisers, and are confidential. The opinion defines "private advisers" to include anyone the President consults outside the Executive Branch.

- ***Active litigation.*** The Administration has already invoked this theory in litigation and asserted the presidential communications privilege over the identities of those who drafted certain executive orders.
- ***Communications specifics.*** The OLC opinion has limits that companies should understand. It reaches only communications with the President or his "direct advisers," a term it does not define. It does not by its terms extend to agency personnel generally or to everyone in the White House, so third parties should not assume that every communication with "the Administration" is covered, and a company's internal discussions about those communications are still unlikely to fall within this broad understanding of executive privilege. That said, the opinion also discusses the deliberative process privilege, leaving some ambiguity as to how far the Administration will seek to extend the privilege.
- ***Mechanics.*** Executive privilege belongs to the President, not to the company. In July 2026, the D.C. Circuit affirmed Peter Navarro's criminal contempt conviction for defying the January 6 Select Committee, holding that executive privilege must actually be invoked by the President or an authorized designee, and that a privilege claim over some material does not justify refusing to comply with a subpoena altogether. A company that asserts executive privilege on its own initiative, without a legitimate basis, risks a contempt vote or a criminal referral.

Companies caught in the middle. Businesses may find themselves caught in the middle of a fight between a Congress that continues to see information from private parties as a way to probe Executive Branch conduct and an Administration intent on limiting what Congress obtains. The

Administration is unlikely to intervene in every request that touches its communications, but in some matters a private party may receive a committee subpoena and, at the same time, an instruction from the Administration not to produce. Because the Speech or Debate Clause immunizes congressional committees from suit for actions within the legitimate legislative sphere, an Executive Branch challenge to the subpoena would have to be brought against the third-party recipient, as occurred in *Trump v. Mazars* and in earlier cases.[44] Companies should therefore plan for the possibility of being a nominal defendant in an inter-branch dispute, and they will need a response plan well before any court has ruled on the questions the OLC opinion raises.[45]

III. Client Preparedness

Companies that anticipate receiving outreach from congressional committees in the 120th Congress should consider whether to begin preparing now rather than waiting for a letter or subpoena. The steps below can be effective when taken before a request arrives, while a company retains the most flexibility and leverage.

Map exposure against Democratic investigative priorities. Companies should inventory their interactions with the Administration since January 2025—including settlements, agreements, contracts, regulatory relief, tariff exclusions, donations (such as to the inauguration, the White House ballroom, and similar projects), and executive communications with the White House—and compare them against the priorities described in Part II.A. This assessment should be conducted under privilege and can be paired with tabletop exercises that test how the company would respond to a request.

How to view ranking member letters. As discussed in Part II.B, a company that has received a letter from a ranking member during the 119th Congress should treat it as a likely majority request or subpoena in January. Companies should consider whether there are strategic advantages to laying the groundwork with committee staff now and should ensure that any voluntary response is consistent with what the company would be prepared to produce later.

Privilege planning. Companies should identify communications that could fall within the August 2026 OLC opinion discussed in Part II.D and document confidentiality expectations in writing going forward. They should also decide in advance how they will respond if the White House asserts privilege over material a committee has requested—including whether and when to notify the Administration of the request—and prepare for the possibility of litigation in which they are named as nominal defendants.[46]

Document preservation. Companies should review their document retention policies and consider additional steps where appropriate. Companies also should anticipate document preservation requests from chairs-to-be and may want to prepare now for how to respond given the lack of case law directly on point.

Build the response team. An effective response requires coordination among the legal, government affairs, communications, and e-discovery functions, along with outside counsel familiar with each committee's rules, procedures, and staff. Companies should also consider

preparing response materials and aligning their messaging to the press and investors in advance.

Consistency across committees, chambers, and forums. Because many priority topics fall within the jurisdiction of several committees in both chambers, companies should use consistent narratives and productions, track what has been produced to whom, and, where appropriate, point to productions already made to one committee when negotiating the scope of a request from another. The same discipline applies where a company faces parallel regulatory inquiries or civil litigation. Statements made to Congress can be used in those proceedings, and positions taken before a committee should match positions taken in court.

Witness readiness. Companies should identify likely witnesses early and develop plans for preparing them for transcribed interviews, depositions, and hearings. Witnesses should understand that false statements made in a transcribed interview, like false statements in sworn testimony, can be prosecuted under 18 U.S.C. § 1001.

Consider collateral consequences. Productions and testimony can reach regulators, civil plaintiffs, shareholders, and business partners. Companies should assess those risks before producing and should consider how to protect trade secrets and other confidential business information.

Monitor developments. Finally, companies should monitor the House rules package, committee rules, Senate funding resolutions, any change in Senate precedent, and privilege litigation, each of which will shape the tools available to the new majority.

Gibson Dunn lawyers have extensive experience in both running congressional investigations and defending targets of and witnesses in such investigations. If you or your company become the subject of a congressional inquiry, or if you are concerned that such an inquiry may be likely, please feel free to contact us for assistance.

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The following Gibson Dunn lawyers prepared this update: Michael Bopp, Barry Berke, Stuart Delery, Matthew Owen, Jillian Katterhagen, Kareem Ramadan, Kelly Yahner, and Garrick Donnelly.

Gibson Dunn's lawyers are available to assist in addressing any questions you may have regarding these developments. Please contact the Gibson Dunn lawyer with whom you usually work, the authors, or any of the following members of the firm's Congressional Investigations, Public Policy, or Administrative Law & Regulatory practice groups:

Michael D. Bopp – Chair, Congressional Investigations Practice,
(+1 202.955.8256, mbopp@gibsondunn.com)

Barry H. Berke – Co-Chair, Litigation Practice,
(+1 212.351.3860, bberke@gibsondunn.com)

Stuart F. Delery – Co-Chair, Administrative Law & Regulatory Practice,
(+1 202.955.8515, sdelery@gibsondunn.com)

Matthew S. Owen – Partner, Congressional Investigations Practice,
(+1 202.955.8616, mowen@gibsondunn.com)

Jillian N. Katterhagen – Associate, Congressional Investigations Practice,
(+1.202.955.8283, jkatterhagen@gibsondunn.com)

Kareem W. Ramadan – Associate, Congressional Investigations Practice,
(+1.202.887.3542, kramadan@gibsondunn.com)

Kelly M. Yahner – Associate, Congressional Investigations Practice,
(+1.202.777.9581, kyahner@gibsondunn.com)

Garrick R. Donnelly – Associate, Congressional Investigations Practice,
(+1 202.777.9482, gdonnelly@gibsondunn.com)

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