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Government Investigations & White Collar Defense Alert

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Congressional investigations: Preparing for 2027

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A new congressional majority signals heightened scrutiny for businesses. Early preparation can help companies respond to document demands, subpoenas, and hearings.

What's the impact?

- When the new Congress takes office in January 2027, companies with administration ties, federal contracts, or perceived benefits from reduced oversight may face heightened scrutiny.
- Potential targets include AI companies, data center operators, and businesses in technology, healthcare, pharmaceuticals, insurance, transportation, energy, infrastructure, and financial services.
- Before inquiries arrive, companies should assess exposure and develop a response strategy. Early engagement with counsel can help manage document demands, subpoenas, and witness preparation.

With Democrats having won majority control of both the House of Representatives and Senate, the oversight and investigatory priorities in Washington, DC, will shift significantly when the new Congress is sworn in on January 3, 2027.

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In September, we wrote that companies perceived to be close with the Trump Administration or beneficiaries of its policies may face heightened risk of congressional investigations. Congressman Robert Garcia, the likely next chair of the House Oversight Committee, characterized the emerging mood on Capitol Hill with a two-word post on X: "Lawyer Up."

It seems clear that Congress will quickly put private companies under the microscope, asking them to provide documents and testimony. These requests could become more frequent if executive branch agencies decline to produce information in response to congressional subpoenas.

Regardless of whether a company has engaged with the White House directly or indirectly, companies can expect a Democratic-controlled Congress to use its investigative powers to scrutinize businesses that may have benefited from changes in federal enforcement priorities. For example, the Department of Justice — at President Trump's direction — has deprioritized enforcement of the Foreign Corrupt Practices Act (FCPA). Democrats may well investigate companies suspected of potential FCPA violations. The scope and nature of these investigations are impossible to predict with certainty.

In practical terms, that means that businesses should be prepared and could become witnesses in, or subjects of, a congressional investigation.

The incoming majority has already begun determining who will chair which committees. In addition to Garcia, other likely committee chairs include: Congressman Jamie Raskin (House Judiciary Committee), Senator Sheldon Whitehouse (Senate Judiciary Committee), Senator Richard Blumenthal (Senate Permanent Subcommittee on Investigations), Senator Elizabeth Warren (Senate Banking Committee), Senator Bernie Sanders (Senate Committee on Health, Education, Labor and Pensions), Senator Maria Cantwell (Senate Committee on Commerce, Science, and Transportation), and Senator Ron Wyden (Senate Finance Committee). Control of these and other committees means that the new majority will wield significant subpoena power.

Democrats have already issued investigative inquiries to several major companies. By way of example, an airline has received an investigative letter from Democratic members of the Committee on Oversight and Government Reform in connection with its sale of aircraft to the Department of Homeland Security as part of a "no bid" contract. With Democrats gaining congressional control, the committees could compel testimony from those companies.

Companies that have made significant contributions to presidential initiatives, entered into deals with administration officials, or received perceived privileged treatment or contract awards could also face a higher likelihood of congressional scrutiny.

Companies' use of artificial intelligence is likely to remain a focus of congressional investigations.

At the end of October, joint committee oversight letters were sent to leading AI companies requesting detailed information regarding security incidents, due diligence for third-party vendors, and documentation of internal procedures. The oversight letters directed each company to provide the requested information within tight timelines. These letters suggest an intent both to seek sensitive corporate information and to develop legislation adding important regulatory consequences for the companies involved. Owners and operators of data centers will likely receive similar treatment. Other industries that have recently received critical scrutiny—including technology, healthcare, pharmaceuticals, insurance, transportation, energy, infrastructure, and financial services—will also face heightened investigative risk.

How should individuals and companies prepare for 2027?

On any particular matter coming under congressional scrutiny, early and productive engagement with a committee can often be in a company's best interests. With a sophisticated engagement strategy, this approach can reduce the likelihood of public conflict and potentially ward off more aggressive oversight demands via subpoenas and high-publicity messaging.

Individuals and companies at risk of congressional scrutiny should start preparing as early as possible to protect themselves against potential exposure. Engaging outside counsel early can help mitigate that risk. The best defense is solid preparation: an independent evaluation of potential risk, development of strategies to achieve positive outcomes, management of any congressional investigative requests, thoughtful handling of demands that are vague or broad, preparation of all potential witnesses, and seasoned representation at all points of government inquiry.

Nixon Peabody is well-positioned to help businesses or individuals who face congressional investigations. Our attorneys have deep experience in preparing witnesses for congressional testimony and in responding to both congressional requests and subpoenas. We have extensive experience with the Department of Justice and officials on Capitol Hill on both sides of the aisle. Interfacing appropriately and effectively with both the minority and majority, as well as the Department of Justice, will be essential to any congressional investigation strategy.

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