

Finance/Financial Services

With Republicans taking control of the House while Democrats retain control of the Senate, organizations interested in financial services and fiscal policy need to prepare for the realities of divided government, narrow majorities and changes in leadership. While GOP “messaging bills” will no doubt come out of the House, particularly on tax and fiscal policy, they are unlikely to advance in a Democratic Senate. Conflicting approaches to oversight and accountability may well leave regulators and the business community walking a tight rope, trying to balance between the priorities and expectations of the two parties, particularly as related to environmental, social and governance (ESG) issues. At the same time, a handful of related issues could be areas for the two parties to reach a compromise on bipartisan legislation and investigations, such as the collapse of cryptocurrency exchange FTX.

AREAS OF POTENTIAL BIPARTISANSHIP

- Cryptocurrency regulation and FTX investigation
- Antitrust and tech regulation
- Housing finance reform and flood insurance
- Congressional stock trading
- Oversight of largest banks

LIKELIHOOD OF POTENTIAL LEGISLATIVE AND REGULATORY ACTIONS

Based on National Journal’s industry impact summaries, the outlook for a number of high-profile actions under a Republican-controlled House and Democrat-controlled Senate is as follows:

Regulatory Actions

- Create a regulatory framework for digital assets: **Likely**
- Enact antitrust legislation regarding the technology sector: **Likely**
- Increase regulation of companies, including in financial services, via consumer protection and related agencies: **Possible**
- Ban members of Congress from trading stocks: **Possible**
- Increase supervision of climate-related financial risks in the financial services industry: **Unlikely**

Tax Policy

- Expand low-income housing tax credit: **Likely**
- Raise the State and Local Tax (SALT) deduction cap: **Unlikely**
- Increase global minimum tax rate to 15%: **Unlikely**
- Increase the corporate tax rate: **Unlikely**
- Increase the top marginal tax rate: **Unlikely**

COMMITTEE LEADERSHIP

SENATE BANKING

Chair:

Sherrod Brown (D-Ohio)

Ranking Member:

Tim Scott (R-S.C.)

SENATE FINANCE

Chair:

Ron Wyden (D-Ore.)

Ranking Member:

Mike Crapo (R-Idaho)

HOUSE FINANCIAL SERVICES

Chair:

Patrick McHenry (R-N.C.)

Ranking Member:

Maxine Waters (D-Calif.)

HOUSE WAYS AND MEANS

Chair:

TBD; leading candidates include Vern Buchanan (R-Fla.), Adrian Smith (R-Neb.), Jason Smith (R-Mo.)

Ranking Member:

Richard Neal (D-Mass.)

CONSIDERATIONS FOR ORGANIZATIONS

Organizations following tax and financial services policy should have the following considerations in mind as they prepare to engage on these issues during the 118th Congress:

- **Don't expect significant changes in tax policy one way or the other.** The tax provisions in the Inflation Reduction Act are likely to stand, though the Republican House will no doubt attempt to roll them back. Republicans, while distancing themselves from the collective business community, aren't likely to join forces with Democrats on any further corporate tax increases, especially amid economic uncertainty.
- **Prepare for dueling oversight on both sides of Capitol Hill and from both parties.** With competing oversight efforts from the two parties, there will be inherent tensions for companies and sectors in the crosshairs – from Democratic criticism on the Senate side about insufficient support for everyday consumers and inadequate efforts on ESG and diversity, equity and inclusion (DEI) to House Republican inquiries about so-called “woke capitalism.” Federal financial regulators perceived as aiding these efforts – for example, the Consumer Financial Protection Bureau (CFPB), the Securities and Exchange Commission (SEC) and the Internal Revenue Service (IRS) – will find themselves on Republicans' radar.
- **Brace for continued action by Biden-appointed regulators** such as the CFPB and SEC, even amid Republican oversight efforts. Agency leaders will continue to execute the administration's agenda knowing that their time may be short if a Republican wins the presidency in 2024. The CFPB may find itself the subject of reform legislation – a long-sought-after goal of congressional Republicans – amid a high-profile legal challenge to the constitutionality of its funding structure.
- **Set your organization's positions on areas of conflicting congressional oversight – such as ESG – in accordance with your values.** Don't fall victim to the competing political pressures, and clearly and transparently communicate your position to members of Congress and the relevant committees, as well as to internal and external stakeholders.
- **Be prepared to engage with members of Congress on the issues of bipartisan interest,** starting with introductory education – such as if your organization has a stake in the future of crypto and digital currency or housing finance – and speak to how new regulation might impact your organization.