

Podcast: *Regulatory Oversight***Episode:** Congressional Oversight Ahead of the Midterms: What Companies Should Expect**Host:** Stephen Piepgrass**Guests:** Lindsay Austin and Jason Smith**Aired:** October 28, 2026**Stephen Piepgrass:**

Welcome to another episode of *Regulatory Oversight*, a podcast that focuses on providing expert perspective on trends that drive regulatory enforcement activity. I'm Stephen Piepgrass, one of the hosts of the podcast, and I lead our firm's Regulatory Investigations, Strategy, and Enforcement practice group. Our podcast features insights from members of our practice group, including our nationally ranked State Attorneys General team, as well as guest commentary from business leaders, regulatory experts, and current and former government officials. We cover a wide range of topics affecting businesses operating in highly regulated spaces. Before we get started today, I want to remind our listeners to visit and subscribe to our blog at regulatoryoversight.com so you can stay up to date on developments and changes in the landscape. Today, I'm joined by my colleagues, Lindsay Austin and Jason Smith, to discuss the congressional oversight landscape ahead of the midterms, including how shifts in congressional leadership and committee dynamics could shape the next wave of investigations.

I look forward to hearing them draw on lessons from prior oversight cycles and explore procedural and constitutional issues likely to arise, as well as provide some practical guidance on how companies can prepare for scrutiny, strengthen bipartisan relationships, and respond effectively if they are a subject of an investigation or called to testify. Lindsay is a principal in our Troutman Strategies group with over two decades of experience in Washington, D.C., working closely with policymakers, congressional staff, and federal officials on the issues that matter most to her clients. Jason, meanwhile, brings more than 15 years of experience on Capitol Hill, including senior roles with Senators John Fetterman, Patty Murray, and Mark Begich, where he managed major legislative teams, led judicial selection in high-stakes negotiations, and advised on voting rights and crisis response at the highest levels of government. Lindsay and Jason, thank you for joining me today.

Lindsay Austin:

Thank you, Stephen.

Jason Smith:

Great to be here, Steve.

Stephen Piepgrass:

Absolutely. Why don't we dive right into it? We are obviously still here in Trump's second term. We have a lot of lessons we can draw on from his first term, although there are some key differences between them. But now, as I referenced in the intro, we also are rapidly approaching midterms, and that also brings with it new dynamics. So we could take this conversation in a lot of different directions, but I'm happy to hear from both of you. And as I mentioned to our listeners, we've got a lot of experience, both working on the Hill for different members in Jason, and then Lindsay, over two decades of experience, I like that reference, on the lobbying side with Troutman Strategies.

Lindsay Austin:

Thank you, Stephen. I'll go ahead and add that I am actually one of the only non-attorney partners at the law firm, partner equivalent in a principal role, which is by design at our law firm, where we have expertise coming from government that may not require a law degree, but more of the expertise that's involved in navigating all things federal government. We have practices at the state level as well. So I lead our federal practice here in Washington, I've been with the firm for over 15, 15 and a half years, and we have roughly 40 clients at the federal level. Partnered up with Jason, glad to bring him over, drag him over from the Senate. But a lot of the experience that we have is based on our clients' challenges with Washington, also the opportunities with Washington. Even though we're talking about regulatory oversight and investigations that are expected in the new Congress, this is not new to us. This is something that we've seen happen for many, many years, including when I was a Capitol Hill staffer.

It's all bogged down in not just politics, but the policy of the day. And obviously, midterms and presidential campaigns happen every other year. Things are always in campaign mode. Everybody's trying to get reelected, whether they're on their four-year cycle, six-year cycle, or their two-year cycle. So these are items I think we'll discuss. It feels a little bit heavier this time because we have such a dynamic administration and White House that has a lot that the Democrats, I think, would want to uncover. So based on experience with corporate clients, university clients, nonprofits, clients seeking federal funding, we always advise our clients you have to be prepared to be earnest and transparent in everything you do with the federal government. And I don't think that changes based on this current midterm election and what could happen. That's my opening salvo, but I'll hand it over to Jason to see if he has anything he wants to kick off with.

Jason Smith:

Thanks, Lindsay. And I think Lindsay was absolutely right. This is an unusual seat for me because since 2012, for most of the time, I've been on the other side of the table leading the investigations, doing investigations, getting ready to start looking into new things when a new Congress comes around. And I can tell you that right now, the Democrats in D.C., are more motivated than ever before to dive into oversight. The political winds they feel are at their backs. There has been a lot of things going on in the

administration over the first two years, a lot of things that have been unprecedented action by the administration. Some of those things have been struck down by the courts, tariffs there. But more things have not been at the top of the news and at the top of everyday thought for regular people.

But industry leaders know and folks around the private sector know that processes have been running differently and things have been asked of them that have not been asked of them before. So right now, we are in a space where the election is looming. Things look to be a certain way. Who knows how they exactly shake out. But I can tell you that right now, Democratic staff who are up on the Hill are preparing. They are getting ready. They are putting together their list of target industries, target companies to look at, all with the probably the larger target of getting into what the administration's been up to and how they can make political hay out of that. But as Lindsay said, it is an extremely dynamic time. Stakes couldn't be higher, and we are going to be getting into some uncharted waters pretty soon here.

Lindsay Austin:

I would even cite that we've seen examples of where Democrats have already made overtures and had some successes. I won't necessarily name the client, but we had a client recently deal with a committee hearing where they were supposed to testify and they were unable to attend, and not for any reason other than a scheduling challenge. And the Democrats made an entire coup over the committee. And they were able to create a public relations challenge by having every single committee member attend that hearing. Normally a very low-profile hearing where the Republicans were not necessarily in attendance. This wasn't even an A-committee. And what we saw was a really coordinated effort to push for subpoenaing executive leaders to come and testify, even though there really was no purpose or intent, that there's plenty of opportunity this client had in particular met with all the committee staff in advance, had done hearings and had done staff briefings. But they found an opportunity even in the minority.

So really signaling that they're not here to play games. They're ready to come to war and to battle. They've been suffering through the last two years of dealing with being in the minority. I have worked on the Hill in the majority and in the minority, and it can be a brutal place to be on the other side of the dial. Where you feel like you don't have control. So the methods that get utilized, it's really interesting to understand House and Senate procedure and create your own rules based on what the rulebook actually states and allows for you to do. And so this is where I think the creativity comes from the committee staff and from the personal offices. I think it's also important to understand the motivations of certain members. Motivations can look like all sorts of flavors. Their motivation can be that they need to be reelected.

Their motivation can be that they are a practicing attorney and they have the skill or ability to be able to investigate these administration officials or companies that they choose. They feel like they need to get a spotlight. That was what we saw in the... So

we couldn't even talk about the first Trump administration where we saw a lot of spotlight members on the Republican side really trying to highlight through the new world of social media being the court of public opinion, as opposed to sitting in the public watching an entire hearing. They can just tweet something out and feel as if it's the word. And so I think that's really what we're seeing the difference between my time on the Hill and now is that each member is its own microphone, and you have to understand their motivations. And so what we do at the Strategies Group is really try to understand where those members stand, what they're trying to do on their committees, what their policy goals are, what their agendas might be, while also following their leadership, which I think we're going to get into in the podcast.

Stephen Piepgrass:

All three of us have been on the Hill at one point or another. Jason, you were there most recently. As you're thinking about it, and you referenced this earlier, what are the industries that seem to be in the crosshairs if there is some sort of a Democratic takeover following the midterms? What are staffers salivating about going after as they're thinking about potential targets?

Jason Smith:

Sure, Steve. I think it's important for folks in industry and people who don't deal with DC to get an idea of how this actually works, which is it's not just a blob there. There are 535 members of Congress, and every one of their offices runs like its own little small business. No two offices work the same. And the same goes with the committees. And it really depends on who the chair is as to how the committee is going to behave. There are some committee chairs who, when they become chair, there are almost no hearings, they do almost no oversight, and they mark up almost no bills. That is just the way they roll. There are other committee chairs who are going to investigate, turn over every rock, bother everybody, bring everybody in, and make everybody's lives miserable.

Now, that can come from either the member themselves. As Lindsay said, some of these members, they are lawyers, they have history of questioning and doing investigations. It can also come from the staff. And the staff is very important with a lot of these members - they're the ones actually coming up with the questions. So they're the ones running down the investigative lanes. And being able to see that there are multiple things in the mix as to who gets targeted or who gets investigated is important. To Steven's question directly, I think there are some of the big-name industries that are going to be at the top of the list. AI is absolutely at the top of the list. Energy, especially if Sheldon Whitehouse comes into a chairmanship, energy companies will be at the top of the list. Healthcare, biotech, and finance. I think those are really the...

And biotech, I'll also include pharma in there. Because of the cost pressures, because of things that Democrats are hearing as they're campaigning. If it is a big issue for the voters, it is something that people on the Hill are going to want to distill into some sort of

oversight or action item to say, "Hey, even if I couldn't pass a law to do this thing..." because no matter what happens in November, Donald Trump will be president. So you want to make a law, you need a signature or you need two-thirds to override a veto. If I can't do a law, how do I show people that I'm actually fighting for them? Okay, I will investigate the people who I think are doing bad things to my constituents and then I'm going to publicize them.

As Lindsay said, the ways of transmitting what lawmakers are doing, whether it's oversight, asking questions, demanding document production, those methods of communication have really exploded to now we have social media, we have short-form video, we have all sorts of things. Now, are the members using those? Not extremely well. Most use them very poorly. I would say House Democrats are probably the least bad of all of them at using the new forms of communication. But those industries need to really be prepared for oversight.

But, like Lindsay talked about, you can have PR problems and then you can also have substantive problems, both of federal legal issues or, right now, the Department of Justice again is going to be controlled by the president for two more years. Even if you're not going to catch a federal investigation by the DOJ, you should be aware that any investigation you are going through up on the Hill could be the seeds of a state AG investigation, could be the seeds of another federal investigation two years from now if the administration were to change. So it is important that everybody is being mindful and very thoughtful about all of these things. No matter how bogus you think an investigation is, you have to treat it seriously.

Stephen Piepgrass:

Lindsay, you've spent years, I'm sure, helping companies develop relationships, businesses with the administration and partner with them for different initiatives. Now we're having this dynamic where all of that is now a potential target for a new Congress. Can you speak a little bit to how the dynamics of that work and what companies should be thinking about today about positioning themselves well in a situation where they may end up being targets of investigation in a matter of months?

Lindsay Austin:

Sure. I'll provide a little bit more of a positive angle on it. When the Trump administration came in, in the first administration, it was a new world order. Our clients had never worked with anybody like this. There was no precedent for not only the president, President Donald Trump, but also all of the cabinet officials and people that came in because it was just a new world order. But they opened the doors for businesses to meet with them, and it was kind of wide open. We were really in and out all the time educating the administration and the agencies. And I have to say, I mean this in an unbiased way. Even though I did work for a Republican, I have to operate with a bipartisan hat on all the time because we work with everybody. But the Biden administration was very closed off to businesses coming in.

They had their selected organizations that they would meet with. And on occasion, we'd have some very substantive meetings with agency officials around certain topics like trade or energy or higher education, which is really kind of the neutral soft spot for most folks. The new administration, it was almost tenfold on how businesses could interact with agencies, with White House officials, constant events, constant highlighting of certain topics. So I would say that companies came in really open-minded to working the second administration, working with the Trump administration to solve big problems, where I would even say that Congress couldn't solve these problems because you're seeing slim margins and slim majorities and unable to get real substantive legislation across the finish line, dealing with constant continuing resolutions, shutdowns even, really not seeing... It's not sexy to have bipartisan legislation anymore.

But the administration really capitalized on that. I give them credit for it and bringing people in. Yes, was there a subset of industry that really took advantage of the relationship with the president and the relationship with these business leaders that he brought into his administration? Absolutely. Is that going to end up being to their detriment? That's to be told. And really, I think if you look at the investigative process, the oversight process, clients and companies and industry and individuals that may get caught, this is their opportunity to tell their story and tell it transparently. I think that in terms of other industries that... You got to meet your constituents and your voters where they are. What is it that they care about? They really get frustrated, obviously, affordability. Okay, can you thread the needle politically around, okay, who's taking advantage of the current system that's causing these prices to increase? Let's attack that.

Let's look at that from an investigative standpoint. I think the defense industry is really one that there's a lot of big questions around. I'm kind of dovetailing off of Jason's response. The cryptocurrency industry, everything between crypto and AI, these are newfound industries to your average American voter. Meeting them where they are and finding these companies that are out there that either we represent or have representation across Washington, they can't be in denial or be ashamed of their engagement with the administration. They need to own it because this is their public right and ability to be able to work with the government that represents them and go through all the machinations with government. That's the patience you have to have.

If you engage in advocacy and you engage in government affairs, you have to understand that this does not operate like a business. Donald Trump had to learn that. President Trump had to learn that in his first term. Government does not operate like a business. It operates like an institution that is government. And so I think that that's really where this second term has capitalized on it and said, well, not only are we going to try and work as government and utilize every tool we have in our toolbox, whether it's executive orders, new initiatives, events, but we're also going to utilize the way that businesses work. They like to be at the table, they like to get recognition, they like to have brand and identification. So that's my positive spin on it. We might get towards the

end and we'll start getting into some of the nitty-gritty, but I think that's the approach that we've taken with our clients is open-door policy, we can't decline it.

Stephen Piepgrass:

Really good points. And I like the positive view on that and agree. Maybe we could talk just a little bit about how these investigations work. And Jason, maybe you could speak to how's a committee work if it's interested in going after a particular company or a particular industry? Just talk to us a little bit about that oversight process.

Jason Smith:

Every committee is structured a little bit differently. The new style, as I like to say, is that committees should have set-aside oversight functions, so staff who are primarily or solely dedicated to doing oversight. Now, in a normal context, when we say oversight, it's typically of the programs and policies within the jurisdiction of the committee. So it's a lot of integrity work. Is the government program working and doing what it's supposed to do? But of course, it also spreads into the private sector and what are the impacts of the laws and are people following the laws and what are the challenges there? Now, as I said before, sometimes you have individual senators or congresspeople who have a fixated motivation on a certain topic.

As a member of someone's staff, your job is to take on their personality and to sort of carry forward their goals. So staff is going to be motivated right from the top to get into their agenda items. Sometimes with members who have less stated agenda items in terms of oversight, it really is a function of the oversight staff. And it's basically a funnel approach, which is, what are the top issues or the most consequential issues that we are looking at in this committee? Typically, it's related to the substantive legislating work, but it doesn't necessarily have to be. Just has to be with the jurisdiction. And then you send out requests for information from a wide subset of industry players to start just pulling in general information so you can get a sense of how are things operating, are there outliers, what's going on here? And then you focus in more and more on a more limited number of organizations or a more limited subset of the industry where you might have a concern about either implementation of current laws, adherence to current laws, or what we need to do to amend current laws to make them work better for people.

What I can't emphasize more to folks is the last thing that you want is for your first discussion with a committee to be when they haul you in to have a conversation. I will say that over my time on the Hill, more than 12 years, 90% of the time, lobbyists were coming to me for no reason. And I felt like my time was wasted and it was ridiculous and I couldn't believe these people were getting paid money. The 10% where it was, "Oh, wow, these people have earned their money. I totally understand what they're doing here," is being proactive and building the relationship to the office or the committee that you think is going to come knock on your door because you think they don't like you.

Having a business relationship, having an honest and open relationship does the world for a potential target of investigation because you show you have nothing to hide.

Hey, yeah, Congress should know about how industries are functioning because you're supposed to be the people writing our laws, so you should really understand what they do and having that give and take. I can tell you right now, during this administration, during the first two years of the Trump administration, a constituent company called me with a problem. And they talked through a big situation that they were having that was threatening their entire business model and then started talking to me about the discussions they were having with the administration. Now, I will tell you that at the end of this story, if they hadn't come to me and the result had been what the public result was, I would have thought, "That's something we need to investigate. It seems like there's something really untoward going on here." But because they had come in to me early and explained to me exactly what was going on, I understood the pressures that they were under and I understood the conversations that they were having and was very comfortable with everything going on. But it was a potential.

As it was happening, I was like, "Wow, if this didn't go the way it did, it would absolutely be something of a two-to-three investigative hearing series." So be aware that people are going to come calling, asking questions. Do what you can to be proactive and tell people about, "These are the requirements we were under. These are the things that we had to do." And work with trusted professionals like Lindsay to make sure that you are taking on the challenge from the first sniff of a problem all the way to if potentially you got into a document production or a hearing request. There are ways to handle this that will minimize downside risk. So yeah, it's certainly a brave new world that we're in.

Lindsay Austin:

Incredible description. And people get really anxious about the idea of investigations and they almost put the cart before the horse. The way that you describe it, the behind-the-scenes work that happens at the personal office of a congressional member who sits on a committee, meeting with their constituency, learning about issues, doesn't always have to be negative. It can be positive. It's like, "Here's what's happening. You need to know. Here's how jobs are being developed in your district. Here's what we're doing to improve the lives of your constituents." So that informative layer is the baseline. And as Jason described, not everything goes immediately to investigation. Yes, there are more investigative committees. Those are typically committees that don't have a lot of legislation moving out of them.

But there's the baseline knowledge that you learn about the issue and then there is the oversight aspect. So this is even how hearings work. So you have a hearing about the topic, right? You don't go straight to a markup. You have a hearing about the topic, you discuss the issue, you learn about it, you amend the legislation, and then you have the discussion where you actually dive in line by line. I'm using bill context as basically the baseline of legislative crafting rather than just hauling people in to embarrass them

before a committee. It's very, very complex where you have these layers of activity that typically occur. And I do think that there are enough stalwarts in the Democratic and the Republican side on the House and the Senate that are very used to their committee processes. They relish and appreciate their committee processes. They beg each other to respect the processes. And so ultimately, it can elevate to an investigative posture from the committee.

But typically, 75% of the time, it's that information-driving, legislative crafting, listening to constituencies, listening to industry, listening to organizations that have expertise on those topics. And then when they really have to escalate to that next level, of course there's going to be political posturing automatically to the investigative side. But we really need to separate the two words. Investigative and oversight are two different things. So you have to see that for what they are rather than having an immediate reaction to, oh my gosh, an investigation. Well, did we do our homework? Did we talk to these people? Do we know our stuff? Do we have our backup on all of this information?

So I would say, as much as people usually, their eyes glaze over and they fall asleep when you talk about procedure and process, and usually really good politicians say you've already lost your voter if you're talking about policy processes or procedure, but I think it's really important to understand, as Jason so eloquently described it, but it's often lost in the whole quick information grabbing. Do you really understand the full topic? And one last thing, I'll provide an example. Represent an incredible nonprofit organization nationwide, and again, I won't necessarily call them out, but we had been doing informational meetings for two or three years. We have fly-ins, we have a lot of discussions.

The Democrats called us and said, "We want you to come in and talk to us about this thing that happened, this thing that was in the newspaper," obviously politically motivated. And then when we had the meeting with them about it, the discovery meeting, they realized, "Oh, there's no there there. This organization really has nothing to do with this. We're barking up the wrong tree." And that's because we were able to have that relationship with the committee that they knew they needed to talk to us before immediately jumping to investigative roles, sending a subpoena, hauling anybody from the organization's membership before Congress. And so I fully anticipate that topic will come up again, but I doubt that my client will be the one sitting at the table.

Stephen Piepgrass:

Really great observation, and I love the very proactive approach that both of you all are recommending, and I think it serves our clients really well. Last question. Since we've been talking proactive, let's quickly cover a defensive approach, and we teased this in the intro: constitutional considerations. Are there ways that businesses should be thinking about this split between the administration and Congress, and what role the constitutional issues, the Supreme Court, may play in that from a defensive positioning perspective if a client ends up in the crosshairs?

Jason Smith:

I think that there are two major factors that play into this scenario that make them more uncertain than ever. The first is there's an ongoing conflict between Article I, the Congress, and Article II, the President, in the Supreme Court over and over again about where are the limits of executive power and the president's ability to approve things compared to Congress's ability. I mean, the appropriations power, the impoundment power, the ability for the Congress to be the source of all new taxes has come into question. So there's a lot of uncertainty. And at the same time, there is uncertainty within the branches themselves.

So when looking at it from the perspective of a client, it is, with all of these unsettled questions, what was the presentation from the executive branch as to why a company had to follow a course of action? Most of the time, in my experience, the administration has made claims of authority that, while they might not be typical and while people might originally look at them and say, "Well, I don't think that the executive can tell a company to do X, Y, or Z," we know that at the end of the court process, it's a 50/50 split. The most important thing is that a company has a good faith reason to believe that what they were asked to do was legal. And with all the uncertainty out there, that is the most important thing.

Stephen Piepgrass:

We will let you have the last word on that, Jason, since I know we're drawing to the end of our time, but I really appreciate you both, Lindsay and Jason, for joining us today. I know our listeners enjoyed this discussion, and thank you to our listeners for tuning in. Be sure to subscribe to our podcast on whatever platform you use, and don't forget to visit regulatoryoversight.com for the latest on regulatory developments. Thanks again, and we will talk to you next time.

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