

## RFA Outlook: February 2026

### Overview

It didn't take long for the federal government to enter another shutdown, albeit this one is partial and likely short. Congress had nearly completed work on the fiscal year (FY) 2026 spending bills before events in Minnesota threw those efforts into turmoil. After a deal was struck between the White House and Senate Democrats last week, the Senate stripped out the Department of Homeland Security (DHS) funding, cleared five of the remaining House passed appropriations bills, and included a two-week DHS continuing resolution to buy more time for negotiations. House Speaker Johnson (R-LA) is currently trying to usher that package through the House. Last night, the Rules Committee favorably reported the rule for considering the Senate-passed spending bill, so barring major changes; the package should pass the House today.

We also expect significant floor action in both the House and Senate on financial-related items this month. It is likely that the Senate will consider Chairman Scott's (R-SC) ROAD to Housing Act and the House will consider Chairman Hill's (R-AR) Main Street Capital Access Act and Housing for the 21<sup>st</sup> Century Act. Both could create significant challenges with amendments related to credit card rate caps, the Credit Card Competition Act, institutional investment in single family housing, and other issues that the Trump Administration has supported as part of their affordability agenda.

Both the House Financial Services Committee and Senate Banking Committee will have several key regulatory oversight hearings this month, including Treasury Secretary Bessent in his FSOC capacity and SEC Chairman Paul Atkins. Senate Banking will also have their oversight hearing with the prudential regulators at the end of February, and it is possible that Federal Reserve Chairman Powell will testify at the end of February or early March for the semi-annual Humphrey-Hawkins hearings.

As for the Administration, President Trump has rolled out several executive orders aimed at improving the cost of living. Part of his affordability agenda involves seeking to address the rising cost of housing and placing a cap on credit card interest rates. Further, the CFPB is continuing to fight battles in court while writing a rule on Section 1033, the SEC is moving toward a principles-based framework to support innovation and streamline corporate disclosures, and the CFTC is modernizing legacy rules to better accommodate emerging markets and digital assets. In addition, the SEC and CFTC have launched a joint initiative under "Project Crypto" to deliver clear, harmonized rules with minimal regulatory overlap, preparing U.S. markets for the passage of any upcoming bipartisan digital asset legislation.

Below, RFA provides our take on notable legislative, regulatory, and administrative activity for the upcoming work period.

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## Big Picture Items

### FY2026 Appropriations Outlook

On Saturday, January 31, 2026, the federal government entered a partial shutdown after the Senate passed a spending package late Friday that the House did not vote on before the funding deadline. The impasse centers on immigration enforcement reforms tied to the DHS appropriations bill and negotiations related to ICE funding.

The House passed the remaining six appropriations bills for FY26 on January 22 (six bills have already been enacted), bundling the DHS bill with a three-bill minibus covering Defense, Labor-HHS-Education, and Transportation-HUD, then combining it with a two-bill package covering Financial Services and General Government (FSGG) and National Security, Department of State, and Related Programs (NSRP/SFOP). This created a consolidated six-bill package sent to the Senate.

The Senate passed five of the six bills on Friday but separated the DHS bill, approving a two-week stopgap funding measure through February 13<sup>th</sup> for DHS. Senate Democrats, led by Majority Leader Schumer (D-NY), negotiated this extension to allow time to work on ICE reform measures, including ending roving patrols, requiring warrants for immigration enforcement actions, and implementing body cameras for officers.

The House is expected to vote on the Senate package today and barring any significant changes, it should pass.

## Policy Updates

### Tax

#### *One Big Beautiful Bill Act (OBBBA)*

Most of the major business provisions from the 2017 Tax Cuts and Jobs Act are now effectively **locked** in, and companies are shifting from waiting-and-seeing to actively planning around the new rules. In the near term, finance and tax teams are concentrating on how these changes affect cash tax outlays, effective tax rates, and capital allocation decisions as Treasury and the IRS roll out guidance on OBBBA's interaction with the corporate alternative minimum tax, the stock buyback excise tax, and the foreign tax credit regime. Companies are starting to evaluate the new Trump Accounts program, which creates taxfavored savings vehicles for children under 18 and includes a federal seed contribution for eligible newborns. Treasury and the IRS have begun issuing operational guidance on contribution limits, employer funding, and plan design, and many employers are assessing whether to add Trump Accounts to their existing benefit platforms.

On the individual side, 2026 filings will be the first real-world test of the revised framework, including tighter limits on itemized deductions and the nowpermanent cap on excess business losses. The distributional impact of these rules is starting to come into focus and is likely to fuel a more contentious tax policy conversation heading into the midterm election cycle. With no major sunset cliff on the horizon, any next round of tax legislation will probably center on narrower, targeted adjustments or revenue-raising offsets, potentially packaged in a followon reconciliation bill rather than a wholesale rewrite of the code.

## *2026 Tax Outlook*

Because of Republican control of Congress, issues such as extending enhanced ACA premium tax credits or modifying widely used tax preferences may stall absent cross-party agreement. At the same time, previously deferred revenue proposals, including a higher stock buyback excise tax, restrictions on SALT workarounds, limits on executive compensation, and adjustments to pass-through taxation, remain potential options if fiscal pressures intensify. President Trump has already signaled a desire to use a limitation of buybacks as a tool. Looking ahead, if Democrats gain the majority in either chamber in the midterm elections, proposals to increase corporate and high-income taxes could be revived, creating meaningful rate uncertainty that many planners are already incorporating into multiyear forecasts.

## *International Tax Update*

Recent developments offer limited Pillar Two relief for U.S. multinationals, while Pillar One remains stalled and unilateral digital taxes continue to spread. On January 5, the OECD Inclusive Framework released an interim “side-by-side” safe harbor that treats the United States as a qualifying jurisdiction, allowing eligible U.S.-headed groups to avoid top-up taxes under the Income Inclusion Rule and Undertaxed Profits Rule beginning January 1, 2026. This provides near-term relief but still requires robust GloBE data, jurisdictional effective tax rate modeling, and coordination with countries—particularly in the European Union—that have adopted qualified domestic minimum top-up taxes. With Pillar One’s Amount A unresolved, digital services taxes and “significant economic presence” regimes are proliferating, especially in Europe, Africa, and emerging markets, often outside treaty frameworks. The U.S. response has emphasized trade and retaliatory measures rather than new treaties, further blurring the lines between tax, trade, and geopolitical risk for digital and consumer-facing companies.

## Trade

Tariffs expanded significantly in 2025, now accounting for roughly 4 percent of federal revenue and pushing effective trade rates well above pre-2018 levels. A key uncertainty is a pending Supreme Court decision on whether the International Emergency Economic Powers Act (IEEPA) authorizes the administration to impose broad “Liberation Day” and reciprocal tariffs, which generated more than \$120 billion in revenue. If the Court limits IEEPA authority, the administration is likely to shift toward traditional trade statutes with formal investigative and notice-and-comment processes, increasing predictability for businesses but also expanding compliance and participation obligations. For example, we understand the Administration has been considering a potential pivot to Section 122 of the Trade Act of 1974. That authority allows the President to impose temporary import surcharges of up to 15 percent—either broadly or targeted at specific countries—to address “large and serious” balance-of-payments concerns or prevent significant dollar depreciation. Section 122 offers a faster path than other trade tools because it does not require a lengthy investigation, but tariffs imposed under this authority can only last up to 150 days unless Congress approves an extension.

Sources indicated the Administration could use that 150-day window to pursue additional tariffs under Section 301 (unreasonable or discriminatory foreign practices) and potentially expand Section 232 tariffs tied to national security. The Administration is already conducting multiple Section 232 investigations, and congressional leadership staff noted that the White House has indicated it would provide advance notice before announcing any new tariffs.

On Capitol Hill, there has been little movement toward a legislative backstop if the Court invalidates IEEPA tariffs. Congressional GOP Leadership has indicated Republicans are reluctant to undermine the President's position that IEEPA provides broad tariff authority. However, Section 122 could provide short-term coverage, and a Court decision striking down some tariffs could revive interest in new statutory tariff authorities—particularly if tariff revenue becomes relevant in the context of a future reconciliation package.

From a tax planning perspective, customs duties, supply-chain restructuring, and potential tariff refunds have become central considerations, particularly in sectors such as autos, technology, semiconductors, pharmaceuticals, and consumer goods, where trade policy increasingly intersects with OBBBA's domestic investment incentives.

## Nominations

Chair Powell's term as Federal Reserve Chair expires on May 15, 2026, while his term as a member of the Board of Governors runs through January 31, 2028. President Trump has announced former Fed Governor Kevin Warsh as his pick for the next Federal Reserve Chair. Kevin Warsh served on the Fed Board of Governors from 2006 to 2011 and served as the Special Assistant to the President for Economic Policy and Executive Secretary of the National Economic Policy for President George W. Bush. It is likely the Committee will hold a nomination hearing in the next two months. However, Senator Tillis (R-NC) has voiced opposition to moving any nominee until the DOJ investigation into Chair Powell is resolved, which will remain an ongoing process issue. While technically possible to discharge a nominee not favorably reported out of Committee, the process has not been successfully used in over 80 years unless the Senate is split 50-50.

The White House could announce a bipartisan slate of CFTC nominees to fill the remaining open commissioner seats, a major ask from Democrats in the digital asset market structure legislation negotiations in the Senate. The SEC faces a similar imbalance - following the departure of Commissioner Caroline Crenshaw at the start of 2026, the agency is now operating without any Democratic commissioners, prompting concerns from Democrats that the SEC's bipartisan structure has been effectively sidelined as the Commission moves forward on an active rulemaking and enforcement agenda.

Elsewhere, nomination activity remains unsettled. On January 3, pursuant to Senate rules, the nomination of Stuart Levenbach to serve as Director of the Consumer Financial Protection Bureau was returned to the President, a procedural outcome that, as previously noted, effectively extends the tenure of Acting Director Russ Vought until approximately late July or early August.

The nomination of MIT Sloan School of Management Professor Sriprakash Kothari to serve as Assistant Secretary for the Office of Economic Policy was also returned to the President but was resubmitted to the Senate where he still awaits a hearing at the Banking Committee.

## Congressional Activity

### House Financial Services Committee

The House Financial Services Committee is prioritizing its statutorily-required oversight hearings this month. Treasury Secretary Scott Bessent will testify Wednesday (2/4) in his role as Chairman of the Financial Stability

Oversight Council (FSOC) and SEC Paul Chair Atkins is scheduled to appear before the House on February 11. It is also possible Federal Reserve Chairman Powell will testify at the end of February or early March for a semi-annual Humphrey-Hawkins hearing.

The Committee is finalizing plans for floor activity for both the Main Street Capital Access and Housing for the 21<sup>st</sup> Century Act, which could both be considered this month by the full House.

### Upcoming Hearings

- **Wednesday, February 4:** *“The Annual Report of the Financial Stability Oversight Council” with Secretary Bessent*
- **Wednesday, February 4:** House Financial Services, Capital Markets Subcommittee — *“A New Day at the SEC: Restoring Accountability, Due Process, and Public Confidence”*
- **Tuesday, February 10:** House Financial Services Committee — *“Priced Out of the American Dream: Understanding the Policies Behind Rising Costs of Housing and Borrowing”*
- **Tuesday, February 10:** House Financial Services, Oversight and Investigations Subcommittee — *“Building a Solid Foundation: Restoring Trust and Transparency in Public Housing Agencies”*
- **Wednesday, February 11:** House Financial Services Committee — *“Oversight of the Securities and Exchange Commission” with Chair Paul Atkins*
- **Wednesday, February 11:** House Financial Services, Housing and Insurance Subcommittee — *“Homeownership and the Role of the Secondary Mortgage Market”*

## Senate Committee on Banking

The Senate Banking Committee is expected to mirror the House’s focus on oversight hearings, with an appearance from Treasury Secretary Bessent this Thursday (2/5), SEC Chair Atkins on February 12, and Federal Reserve Chair Powell later this month or in early March. The Committee is also scheduled to have the prudential regulators testify at the end of the month. Chairman Scott also has committed to a payments-focused hearing where CCCA will be discussed, but it will not take place this month.

As has been well documented, digital asset market structure negotiations have taken up much of the Committee’s bandwidth over the last several months. While we expect that to continue as a market structure bill is still a high priority for Senate Banking as well as the White House, the Committee has begun to focus on developing a broader capital formation package as well as working to have the ROAD to Housing bill signed into law.

### Upcoming Hearings

- **Thursday, February 5:** *“The Financial Stability Oversight Council’s Annual Report to Congress” with Secretary Bessent*
- **Thursday, February 12:** *“Oversight of the SEC” with Chairman Paul Atkins*

## Senate Committee on Agriculture

The Senate Agriculture Committee successfully reported its digital asset market structure legislation, the Digital Commodity Intermediaries Act, out of committee by a partisan 12-11 vote on Thursday, January 29. Notably, Sen. Marshall (R-KS) briefly proposed and then withdrew the Credit Card Competition Act as an amendment to the bill, although the text differed from prior versions.

## Trump Administration

Credit card interest rate caps have reemerged as a policy issue, with the President calling for Congress to move legislation to implement a yearlong 10% cap on credit cards. President Trump has framed the proposal as a way to help consumers save for homeownership. On Capitol Hill, Democrats are highlighting the proposal, including HFSC Ranking Member Maxine Waters (D-CA) who expressed support and offered an amendment to implement a rate cap at a recent HFSC mark-up, but her amendment was deemed not germane.

Housing policy also remains a central focus, with the Administration continuing to emphasize affordability and signaling a willingness to use executive action while asking for additional legislation. On January 20, they released an executive order to limit institutional investors from purchasing single-family homes. The White House is considering additional action such as allowing 401(k) investments to be used for downpayments and other affordability related measures.

President Trump, Treasury Secretary Scott Bessent, Sen. Ted Cruz (R-TX), Rep. Jason Smith (R-MO), and other officials participated in a January 28 summit highlighting the launch of Trump Accounts. At the event, Secretary Bessent announced Treasury's 50 State Challenge, an effort to mobilize philanthropic support to fund accounts in every state by July 4, 2026, when eligible families will be able to open accounts. President Trump and Secretary Bessent also urged states to contribute directly to the accounts. Separately, the Financial Literacy and Education Commission at the Treasury Department will host a meeting this Friday focused on implementation of the Trump Accounts program.

## Regulatory Activity

### Securities and Exchange Commission

The SEC is expected to release an innovation exemption for crypto activities in the next couple of weeks, signaling a shift toward a more defined, principles-based regulatory framework under its broader "Project Crypto" initiative. SEC Chair Paul Atkins has indicated the exemption would allow certain crypto products and business models to launch under formal oversight without full registration, aiming to reduce regulatory uncertainty, reshore digital asset activity, and align treatment of security and non-security crypto assets on regulated platforms. While the proposal marks a departure from the prior enforcement-first approach, it has raised concerns among traditional market participants about potential competitive imbalances and investor protection, suggesting continued debate as implementation moves forward.

In addition, the SEC is soliciting feedback about ways to reduce corporate disclosures. Chair Atkins has criticized the "avalanche of immaterial information" that investors currently receive, and he is seeking feedback

from the industry about ways to limit corporate disclosures to material information only. The comments are due on April 13, and this will ultimately result in a proposed rule to reform Regulation S-K to reduce the amount of information in corporate disclosures.

The SEC's Division of Corporation Finance, Division of Investment Management, and Division of Trading and Markets issued a joint statement on January 28 clarifying that tokenized securities are regulated securities regardless of their format, even if they are a crypto asset. It stressed that onchain or offchain recordkeeping methods do not alter core regulatory obligations. The statement further divided tokenized securities into issuer-sponsored and third-party-sponsored categories for clarity on compliance paths.

On January 30, the SEC appointed Demetrios (Jim) Logothetis as Chairman of the PCAOB, and Mark Calabria, Kyle Hauptman, and Steven Laughton as members of the Board. Under this new leadership structure, the PCAOB will continue to push President Trump's deregulatory agenda and undertake efforts to focus on its statutory mission of protecting investors through accurate and independent audit reports.

## Commodities Futures Trading Commission

The CFTC is signaling a shift toward modernizing its regulatory framework to better accommodate emerging technologies and new market structures, positioning the agency to oversee innovation without stifling it. Chairman Selig has emphasized the need to "future-proof" the Commission by reviewing and updating decades-old rules that were designed for traditional futures markets but are ill-suited for digital assets, prediction markets, and other novel products. This approach centers on developing clear, fit-for-purpose regulations through notice-and-comment rulemaking, moving away from regulation by enforcement and toward a more stable, innovation-friendly regime that can scale as markets evolve.

Last Thursday, the SEC and CFTC held a joint event on regulatory harmonization, featuring SEC Chair Atkins and CFTC Chair Selig. The chairs discussed reducing jurisdictional silos, advancing "Project Crypto" for clearer crypto asset oversight, and prioritizing issues like DeFi, self-custody, tokenized securities, perpetual futures, prediction markets, and asset classification. They announced plans for a new memorandum of understanding to formalize collaboration on digital asset policy and the Crypto Sprint, aiming to align rules, onshore innovation, address overlaps, close gaps, and eliminate duplicative requirements.

## Consumer Financial Protection Bureau

### *Recent Guidance and Rules*

In January, the CFPB issued routine but operationally significant threshold updates affecting regulatory coverage in 2026. The Bureau set the 2026 Home Mortgage Disclosure Act (HMDA) asset-size exemption under Regulation C at \$59 million and the Truth in Lending Act asset-size exemption under Regulation Z at \$2.785 billion. Separately, the CFPB issued an advisory opinion concluding that certain earned wage access (EWA) products do not constitute "credit" under TILA and Regulation Z and withdrew its 2024 proposed interpretive rule that would have classified many EWA models as credit. The CFPB and Department of Justice also withdrew their October 2023 joint ECOA statement on noncitizen borrowers, signaling a continued pullback in fair lending guidance and enforcement.

### *Funding Battle and Litigation Posture*

In early January, Acting Director Vought reversed course and requested \$145 million from the Federal Reserve Board to operate the CFPB through March 2026 following a December 30 ruling by Judge Amy Berman Jackson (Senior U.S. District Judge for the D.C. Circuit) that "earnings" in Dodd-Frank's funding language means revenues, not profits, making the Fed's operational losses irrelevant to whether the CFPB could request funding. The reversal abandoned Vought's previous position, based on an Office of Legal Counsel opinion, that the CFPB could not lawfully request funds while the Fed operated at a loss.

The D.C. Circuit also granted an *en banc* rehearing on December 17, vacating the panel's August 15 judgment that had partially vacated Judge Jackson's preliminary injunction from March 2025 that the CFPB violated the Administrative Procedures Act (APA) to defund itself. The full court will hear oral arguments on February 24, 2026, and the partial stay that has governed the parties' conduct during the initial appeal remains in effect pending *en banc* review. The *en banc* court will decide if the National Treasury Employees Union (NTEU) and other plaintiffs can litigate their claims in federal district court or must instead use the Civil Service Reform Act framework. They also will decide and whether courts possess authority to issue forward-looking injunctions preventing the Administration from dismantling the CFPB without congressional approval.

Vought's reversal on Federal Reserve funding likely reflects several converging pressures. The Federal Reserve may have returned to profitability in Q4 2025 due to Treasury subsidies, potentially eliminating the legal basis for the "earnings" dispute. By requesting funds, the CFPB also satisfied the core demands of two pending lawsuits: one filed by Public Citizen in California and another by 22 Democratic state attorneys general in Oregon, both of which sought mandatory injunctions requiring the Bureau to draw Federal Reserve funds. Additionally, time constraints from Judge Jackson's existing injunction created practical pressures to seek funding rather than pursue an appeal.

### *Looking Ahead*

The Bureau is expected to issue a proposed rule on Section 1033 in the coming weeks to reconfigure the stayed Biden-era Personal Financial Data Rights framework. The Bureau had initially planned to bypass full notice-and-comment procedures by issuing an interim final rule under the Administrative Procedure Act's good cause exception—an expedited path that would have invited APA challenges from stakeholders—but pivoted to a standard proposed rule following Judge Jackson's December 30 ruling requiring continued funding requests. The D.C. Circuit's February 24 *en banc* oral argument will ultimately determine whether the Bureau can pursue aggressive downsizing, which could shape the timeline and scope of the final Section 1033 rule.

On substance, the proposed rule is expected to mirror the framework the Bureau had planned for the interim final rule. The core tradeoff appears likely to permit financial data providers to charge "reasonable and proportional" fees for data access while preserving fintechs' ability to act as "representatives" making requests on consumers' behalf. Rather than prescribing specific fee schedules, the Bureau is expected to defer implementation details to private sector negotiations. The proposal's preamble will also likely include nonbinding language acknowledging that liability for data breaches should flow with the data.

## Federal Trade Commission

The Federal Trade Commission (FTC) was recently named in the Executive Order targeting institutional investors in single-family housing and will work with the DOJ and other agencies to determine if large housing purchases violate antitrust laws or other FTC consumer protection authorities due to price-setting or artificial

vacancy rates. No rulemaking has yet been announced by Chairman Ferguson, though the interagency coordination suggests enforcement actions may precede formal regulatory proposals.

## Department of Labor

The Employee Benefits Security Administration within the Department of Labor (DOL) continues work on a rule to allow alternative asset investment products in 401(k) plans. According to the August 7, 2025, Executive Order, DOL is to publish a Notice of Proposed Rulemaking (NPRM) by February 3, 2026, though we now expect the NPRM later due to interagency review and the partial government shutdown. The NPRM has been sent to OMB for OIRA review and is currently available for 12866 meetings, suggesting the proposal is in its final stages before public release. The rule would mark a significant expansion of permissible retirement plan investments beyond traditional stocks and bonds, potentially opening 401(k) portfolios to private equity, hedge funds, and other illiquid assets.