

## NOTABLE POLICIES CONTAINED IN THE FY 2023 OMNIBUS

### EXECUTIVE SUMMARY

On December 20, congressional appropriators unveiled legislative text for the \$1.7 trillion omnibus spending bill ([text](#); [summary](#)) for fiscal year (FY) 2023. The sprawling Consolidated Appropriations Act, 2023 allocates roughly \$800 billion for nondefense spending, \$858 billion for defense, as well as \$85 billion in emergency supplemental funding for disaster relief and Ukrainian military and humanitarian efforts. The omnibus also contains a host of legislative efforts that were championed by lawmakers on both sides of the aisle, though several efforts did fall short of inclusion within the year-end package.

- **What's in?** Leadership clinched agreements to include a slate of bipartisan retirement measures that seek to build on the SECURE Act of 2019 by expanding automatic enrollment, simplifying and clarifying rules for retirement plans, and increasing overall retirement savings. Legislation to promote greater transparency for third-party sellers of consumer products online was also tacked onto the omnibus. Additionally, the omnibus includes several provisions related to tourism, Electoral Count Act reform, aviation, and climate.
- **What's out?** Lawmakers were unable to reach an agreement to attach bipartisan cannabis banking legislation to the omnibus, as Senate Minority Leader Mitch McConnell (R-KY) remained steadfast in his opposition to attaching the SAFE Banking Act. A broader bipartisan tax package, which would have potentially included incentives for research & development and expanded Child Tax Credit (CTC), also missed the cut for inclusion. Congress also could not reach an agreement to tack on the Open App Markets Act, nor the American Innovation and Choice Online Act.
- **What's next?** Senators will look to take the first procedural vote on the omnibus on the evening of December 20 with the goal of reaching a "time agreement" to expedite consideration. As of now, it is likely that a vote on final passage in the Senate will occur at some point on Thursday, December 22, with a final up-or-down vote in the House taking place ahead of Friday's government funding deadline.

### FY 2023 FUNDING ALLOCATIONS

- **Agriculture-FDA:** \$25.5 billion
- **Commerce-Justice-Science:** \$84.2 billion
- **Defense:** \$797.7 billion
- **Energy-Water Development:** \$54.65 billion

- **Financial Services & General Government:** \$27.6 billion
- **Homeland Security:** \$60.7 billion
- **Interior-Environment:** \$38.9 billion
- **Labor-HHS-Education:** \$226.8 billion
- **Legislative Branch:** \$6.9 billion
- **Military Construction-VA:** \$322.7 billion
- **State-Foreign Operations:** \$59.7 billion
- **Transportation-HUD:** \$87.3 billion

**NOTABLE POLICY RIDERS**

Policy	Description
<p><b>Retirement Savings (Division T)</b></p>	<ul style="list-style-type: none"> <li>• SECURE 2.0 increases participation in retirement plans by expanding automatic enrollment features in retirement plans <b>(Sec. 101)</b>.</li> <li>• Decreases costs for employers that seek to offer retirement plans for their employees <b>(Sec. 102)</b>.</li> <li>• Encourages small businesses to offer retirement plans <b>(Sec. 102)</b>.</li> <li>• Simplifies various rules relating to 401(k), 403(b), and other retirement plans <b>(Sec. 105)</b>.</li> </ul>
<p><b>Flood Insurance Reauthorization (Division AA, Title IX)</b></p>	<ul style="list-style-type: none"> <li>• Extends the borrowing authority of the National Flood Insurance Program through September 30, 2023.</li> </ul>
<p><b>Trading Prohibitions (Division AA; Title III)</b></p>	<ul style="list-style-type: none"> <li>• Amends 2020 legislation to increase accountability for foreign companies that refuse to submit to U.S. oversight of their audit firms and further close a loophole that companies based in China have used to avoid such oversight. Foreign companies traded on U.S. stock exchanges will be required to comply with accounting transparency requirements in two years instead of three <b>(Sec. 301)</b>.</li> </ul>
<p><b>Registration for Index-Linked Annuities (Division AA; Title I)</b></p>	<ul style="list-style-type: none"> <li>• Directs the Securities and Exchange Commission (SEC) to establish a new form for the registration of index-linked annuities. Stipulates that rulemaking in this regard shall begin no later than 180 days following enactment and that the process for finalizing such rule begin within 18 months of enactment.</li> <li>• Further requires the form to provide the investors with sufficient information to make knowledgeable decisions, including information pertaining to the complexity of such assets.</li> </ul>
<p><b>Other Financial Services Provisions (Division AA)</b></p>	<ul style="list-style-type: none"> <li>• Strengthens an existing anti-money laundering whistleblower program by setting a minimum whistleblower award amount and creating a funding mechanism to pay whistleblowers <b>(Title IV)</b>.</li> </ul>

	<ul style="list-style-type: none"> <li>• Codifies an SEC decision to exempt qualifying merger and acquisition brokers that facilitate the sale of small private companies from SEC and FINRA registration requirements <b>(Title V)</b>.</li> <li>• Requires the installation of hardwired or tamper-resistant, battery-powered smoke alarms in federally assisted housing <b>(Title VI)</b>.</li> </ul>
<b>INFORM Consumers Act (Division BB; Title III)</b>	<ul style="list-style-type: none"> <li>• Establishes a national standard requiring online platforms that allow for third party sellers of consumer products to verify the identity of high-volume third-party sellers, enabling consumers to obtain basic identification and contact information for certain high-volume third-party sellers, which would be enforced by the Federal Trade Commission (FTC) and State Attorneys General <b>(Sec. 301)</b>.</li> </ul>
<b>RANSOMWARE Act (Division BB; Title V)</b>	<ul style="list-style-type: none"> <li>• Requires the FTC to report on cross-border complaints received that involve ransomware or other cyber-related attacks committed by certain foreign individuals, companies, and governments <b>(Sec. 501-503)</b>.</li> <li>• Dictates that the report must focus specifically on attacks committed by Russia, China, North Korea, or Iran or individuals or companies that are located in or have ties to said countries <b>(Sec. 503)</b>.</li> </ul>
<b>Merger Filing Fee Modernization (Division GG; Title I)</b>	<ul style="list-style-type: none"> <li>• Alters thresholds for filing fees to be paid by companies contemplating mergers to reduce them for small and medium-sized businesses. Fees are then divided between the FTC and DOJ for antitrust enforcement. Goes into effect on October 1, 2024 <b>(Sec. 101)</b>.</li> <li>• Requires firms attempting to undergo a merger to disclose all subsidies received from foreign adversaries such as China <b>(Sec. 202)</b>.</li> </ul>
<b>Extension of FCC Auction Authority (Division O; Title IX)</b>	<ul style="list-style-type: none"> <li>• Extends the Federal Communication Commission’s (FCC) auction authority through March 9, 2023 <b>(Sec. 901)</b>.</li> </ul>
<b>No TikTok on Government Devices (Division R)</b>	<ul style="list-style-type: none"> <li>• Bans government employees, including officers of the United States, Members of Congress, congressional employees, or officers or employees of a government corporation from downloading or using TikTok and any successor application developed by ByteDance on any device issued by the US government or a government corporation.</li> </ul>
<b>Travel and Tourism (Division BB; Title VI)</b>	<ul style="list-style-type: none"> <li>• Includes a Sense of Congress related to travel and tourism. Also establishes and defines the responsibilities of the position of Assistant Secretary of Commerce for Travel and Tourism to be appointed by the President <b>(Sec. 604)</b>.</li> <li>• Requires the Department of Commerce to develop a 10-year strategy with annual goals to boost the industry <b>(Sec. 606)</b>.</li> </ul>

	<ul style="list-style-type: none"> <li>Establishes the United States Travel and Tourism Advisory Board and establishes the functions of the Board <b>(Sec. 607)</b>.</li> <li>Requires the Assistant Secretary for travel and tourism to collect and make public aggregate data on domestic travel and tourism trends <b>(Sec. 608)</b>.</li> <li>Further requires the Department of Commerce complete a study and issue a report on the effects of the COVID-19 pandemic on the travel and tourism industry, including various segments of the travel and tourism industry, such as domestic, international, leisure, business, convention, meetings, and events <b>(Sec. 611)</b>.</li> </ul>
<p><b>Immigration Extensions (Division O; Title III)</b></p>	<ul style="list-style-type: none"> <li>Extends the E-Verify program <b>(Sec. 301)</b>. Delegates to DHS discretionary authority to issue additional H-2B low-skilled temporary-worker visas beyond the annual statutory cap <b>(Sec. 303)</b>.</li> </ul>
<p><b>USPTO Outreach (Division W)</b></p>	<ul style="list-style-type: none"> <li>Requires U.S. Patent and Trademark Office (USPTO) satellite offices to include outreach activities targeting underrepresented groups including the economically and geographically underrepresented.</li> <li>Requires the establishment of more USPTO satellite offices and community outreach offices.</li> <li>Mandates a report to Congress on patent pro bono programs.</li> </ul>
<p><b>Manufacturing.gov (Division BB)</b></p>	<ul style="list-style-type: none"> <li>Requires the Department of Commerce to establish a section of the manufacturing.gov website to serve as the primary hub for information relating to federal manufacturing programs.</li> <li>In addition to serving as the hub for manufacturing information, the website must also (1) provide the contact information for relevant program offices carrying out federal manufacturing programs; (2) provide an avenue for public input and feedback relating to these programs; and (3) host web pages that focus on topics such as trade, workforce development, and small and medium manufacturers.</li> </ul>
<p><b>Water/Oceans Matters</b></p>	<ul style="list-style-type: none"> <li>Includes a series of policies pertaining to oceans and fisheries <b>(Division S)</b>, water projects <b>(Division CC)</b>, and public land management <b>(Division DD)</b>.</li> <li>Establishes the Great Lakes Authority to support economic and infrastructure development in the Great Lakes system <b>(Title IV, Sec. 401)</b>.</li> <li>Reauthorizes volunteer services, community partnerships, and refuge education programs <b>(Sec. 402)</b>.</li> </ul>

<p><b>Electoral Count Act (Division P)</b></p>	<ul style="list-style-type: none"> <li>Clarifies that the vice president’s role in counting electoral votes is clerical and raises the threshold for the number of senators and representatives needed to object to state-certified electoral ballots <b>(Titles I &amp; II)</b>.</li> </ul>
<p><b>Aviation (Division Q)</b></p>	<ul style="list-style-type: none"> <li>Directs DOT, in collaboration with HHS and DHS and other appropriate federal agencies, to develop a national aviation preparedness plan for communicable disease outbreaks <b>(Sec. 105)</b>.</li> <li>Directs DOT to establish an aerospace supply chain resiliency task force, made up of a holistic group of industry and labor stakeholders, to identify vulnerabilities, assess risks, and recommend solutions to improve the domestic aerospace supply chain <b>(Sec. 106)</b>.</li> </ul>

**NOTABLE FSGG AND CJS REPORT LANGUAGE**

FSGG

- Consumer Right to Repair.** The Federal Trade Commission’s (FTC) "Nixing the Fix" report includes assertions that manufacturers are exploiting their access to consumers' telematics data while limiting those same consumers from accessing their own data or from sharing such access with independent repair shops. FTC is directed to prioritize investigations and enforcement efforts that protect consumers from unfair acts limiting competition, specifically stemming from manufacturers' control over telematics systems.
- Blockchain Analysis Tools.** In support of efforts to counter criminal and terrorist groups, the Treasury Office of Terrorism and Financial Intelligence (TFI) is directed to acquire improved blockchain analysis tools, training on cryptocurrency and cryptocurrency-related investigations, and investigative support to reduce crimes involving ransomware attacks or exploiting the use of cryptocurrency.
- Outbound Investment.** The Department of the Treasury, in coordination with the Department of Commerce and other federal partners, is encouraged to consider establishing a program to address the national security threats emanating from outbound investments from the United States in certain sectors that are critical for U.S. national security. No later than 60 days after enactment, Treasury is directed to submit a report describing such a program including the resources required over the next three years to establish and implement it.
- Investment Adviser Reporting Requirements.** In 2015, the Financial Crimes Enforcement Network (FinCEN) proposed regulations to subject investment advisers to Federal Bank Secrecy Act (BSA) rules but did not finalize these regulations. The report encourages FinCEN to update and finalize this 2015 investment adviser rule as soon as possible and to brief the Committees on its progress no later than 90 days after enactment.

- **Foreign Account Tax Compliance Act.** The Internal Revenue Service is directed to analyze Foreign Account Tax Compliance Act (FACTA) compliance, including revenue generated and any potential lost revenue due to non-compliance, outline efforts to improve compliance, and brief the Committees no later than 180 days after enactment.
- **International Financial Reporting.** The report acknowledges investor demand for more material information about the international financial operations of public companies to assess risk and inform investment decisions. SEC is encouraged to consider promulgating requirements for public companies to disclose basic financial information on a country-by-country basis.
- **Data Security and the Consolidated Audit Trail.** As a repository for sensitive market data, the security of the Consolidated Audit Trail (CAT) system and the data included within it is paramount. The report strongly encourages the SEC, in their oversight of FINRA, to ensure the CAT has adequate breach notification policies in place so affected participants are promptly notified of critical security events.
- **Special Purpose Acquisition Companies.** The report notes that while Special Purpose Acquisition Companies (SPAC) are being more popular, the risks that come with these companies are not always clear to everyday investors. SEC is encouraged to use its authority to provide retail-friendly disclosures for SPACs.

CIS

- **Artificial Intelligence.** The National Institute of Science and Technology (NIST) is directed to develop resources for government, corporate, and academic uses of AI to train and test systems, model AI behavior, and compare systems. Within the funding provided, the agreement encourages NIST to continue to meet growing demand for the 13 Facial Recognition Vendor Test and to improve the test consistent with prior year direction adopted in Public Law 117-103. NIST is also directed to continue multi-stakeholder process of developing a framework for managing risks related to the reliability, robustness, and trustworthiness of AI systems.
- **BIL Broadband Investments.** The report language instructs the National Telecommunications and Information Administration (NTIA) to rely on the Federal Communications Commission (FCC) for the updated maps to determine how to apply the formula that will distribute the majority of the IJJA broadband funds to States to address accessibility. NTIA is also required to report the amount of funds previously invested by agencies over the past decade for broadband implementation, as well as the efforts of states to deploy broadband technology through the Broadband Equity, and Deployment (BEAD) program.

- **Antidumping and Countervailing Duties (AD/CVD) Evasion.** The report directs the International Trade Administration (ITA) to submit a report outlining efforts to counteract the use of third countries for transshipment by state-backed industries and producers to evade U.S. AD/CVD laws. Within that report, ITA is encouraged to identify congressional actions that would be beneficial to counteracting these actions.
- **Financial Fraud.** The report instructs the Attorney General to continue prioritizing DOJ resources to ensure reports of financial fraud, to include scams against senior citizens, are thoroughly investigated to support the goal of bringing perpetrators of such crimes to justice.
- **Money Laundering Investigations.** The Attorney General is instructed to establish and convene an interagency working group to identify the number and status of investigations with a money laundering nexus that involves either foreign official corruption or drug trafficking, as well as an analysis of the value of money or assets seized in FY 2023.