

# Payments legislation to watch in a divided 2023 Congress

Article



**Previewing the 118th Congress:** In 2022, we followed several pressing payment policy initiatives. But after the midterm elections, a narrowly divided Congress will exacerbate Washington's interminable policymaking gridlock.

Here's what that means for these initiatives' odds in 2023:

**Waiting for crypto:** Amid the wreckage from the [abrupt collapse](#) of Sam Bankman-Fried’s sprawling crypto empire, calls for a clearer regulatory regime took on a [renewed sense of urgency](#), even during the 117th Congress’ lame-duck session.

- But proposals like the [bipartisan bill](#) that would put most of the crypto world under the Commodity Futures Trading Commission (CFTC) will likely face tough criticism—Bankman-Fried was a key promoter of such legislation, which some had already said was [too light-handed](#).
- Crypto is one of the few policy areas in which Democrats and Republicans agree Congress needs to act, but their approaches rarely align. Whereas many Democrats support giving the SEC more authority, for example, outgoing Sen. Pat Toomey (R-PA) said the commission displayed “[complete hostility](#)” toward the industry.

Progress on crypto legislation will likely occur only at the broadest level—divvying up oversight of the industry among several regulators that will treat crypto products like their conventional parallels.

**Durbin 2.0 2.0?** The card-routing bill Sen. Dick Durbin (D-IL) introduced over the summer—which would have forced large banks to offer at least two alternative credit card networks other than Visa and Mastercard—has suffered several blows in the current Senate. It effectively [died in the banking committee](#) and was [abandoned](#) as a rider in the National Defense Authorization Act.

- Democrats expanded their control of the Senate—potentially lending the Credit Card Competition Act another vote toward the supermajority needed in the upper chamber.
- The GOP, meanwhile, regained control of the House, but a single-digit majority gives it a tenuous grip over the lower chamber. House lawmakers did introduce a [companion bill](#) in September with bipartisan support, but a greater focus on [public hearings](#) with agency chiefs may exhaust more committee time than credit card bill markups.

**Funding the consumer watchdog:** The Consumer Financial Protection Bureau (CFPB) had a [busy year](#) regulating the payments industry—from scrutinizing [market competitiveness](#) to [investigating BNPL providers](#) and [credit card issuers](#). That’s raised hackles in the industry and may have cost the agency its [unique funding mechanism](#).

- A circuit court in New Orleans ruled that the agency’s “[double-insulated](#)” funds were unconstitutional, effectively neutering the CFPB’s enforcement authority.

- The CFPB has already [asked](#) the Supreme Court to weigh in on the decision, and past court decisions regarding congressional appropriations suggest a precedent that would favor the CFPB.

But the current Supreme Court has overturned precedent before, which means a “[novel and unexpected](#)” ruling from an appellate court can’t be immediately discounted. Should the Supreme Court uphold the ruling, the CFPB could encounter new budget constraints that would limit its ability to regulate the industry as aggressively.

### Factors Influencing Cryptocurrency and Blockchain Adoption at Multinational Corporations According to Executives Worldwide, April 2021

% of respondents



Source: PYMNTS.com, "Cryptocurrency, Blockchain and Cross-Border Payments: How Multinationals Leverage New Technology to Optimize Business Payments" in collaboration with Circle, Nov 11, 2021

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