



# Regulatory Alert

## Regulatory Insights



November 2021

### Infrastructure law adds new funding avenues

*In addition to funding large infrastructure initiatives, the new Infrastructure law helps to direct grants and other funds in support of the Administration's goals and directives related to ESG, including climate as well as equity, "fairness," and access. In particular, the broadband, cybersecurity, and transportation provisions are all crafted to ensure access for economically disadvantaged communities and other vulnerable populations while building the country's capacity in each of these areas. These principles may further influence potential modifications to the interagency CRA regulations in the context of community development/investment opportunities and access to products and services. Similarly, these principles will likely influence climate mitigation efforts (e.g., "climate equity") and be incorporated into expanded customer protections for digital/internet access. Financial services companies should anticipate that the provisions, and definitions within, will also be reflected in whole or in part in other forthcoming regulatory developments. Notably, the reporting requirements for cryptocurrency transactions are a likely first step toward carrying out regulators' recommendations for enhanced supervision of the cryptocurrency markets.*

The President has signed the roughly \$1.2 trillion [Infrastructure Investment and Jobs Act](#) (H.R. 3684) into law. The bill was previously amended and passed by the Senate in August 2021 and passed out of the House of Representatives without change.

Key provisions of the law are directed toward:

- Roads and bridges
- The electric grid
- Broadband Internet access
- Transit systems
- Water infrastructure.

Many provisions have a notable relationship to the administration's ESG-specific Executive Orders and directives to promote racial and economic equity as well as to address climate equity. In particular, the law establishes numerous grant programs related to cybersecurity, broadband, and ESG initiatives, as well as reporting requirements for cryptocurrency transactions.

Highlights of select key provisions follow.

#### Digital Assets

- **New information reporting requirements for cryptocurrencies and other digital assets.** The law establishes new requirements for brokers to report cryptocurrency and other digital asset transactions to the Internal Revenue Service. Reporting is to begin with transactions occurring during calendar year 2023 and reported to the IRS after December 31, 2023. In outlining the new reporting requirements, the law also defines "brokers" and "digital assets" as follows:
  - A "broker" includes "any person who (for consideration) is responsible for regularly providing any service effectuating transfers of digital assets on behalf of another person."
  - A "digital asset" is "any digital representation of value which is recorded on a cryptographically secured distributed ledger or any similar technology as specified by the Secretary."



## Broadband

- **Creation of two grant programs** within the Department of Commerce, the State Digital Equity Capacity Grant Program, and the Digital Equity Competitive Grant Program to:
  - Promote digital equity and digital inclusion activities, where “digital equity” is defined as “the condition in which individuals and communities have the information technology capacity that is needed for full participation in the society and economy of the United States”
  - Build capacity for states regarding broadband availability
  - Spur greater adoption of broadband among covered populations.
- **Extension and modification of the Emergency Broadband Benefit program** to include renaming it to the Affordable Connectivity Benefit program, making the program permanent, expanding eligibility, and subjecting it to FCC oversight, including consumer protections.
- Requirement for the **FCC to issue rules to “facilitate equal access to broadband internet access service”** and prevent digital discrimination of access based on income level, race, ethnicity, color, religion, or national origin.

## Cybersecurity

- **Creation of grant programs.** A fund will be created to help federal, state, local, and Tribal entities as well as public and private entities to respond to and recover from significant cyber incidents. It will be administered through the Department of Homeland Security (DHS), and its Cybersecurity and Infrastructure Security Agency. A separate fund, the State and Local Cybersecurity Grant Program, will be established within DHS to help State, local and Tribal governments address cybersecurity risks and cybersecurity threats to information systems that they

own or operate. The program includes “set asides” for rural communities.

- Additional provisions address **strengthening cybersecurity defenses** in relation to the **electrical grid and the water supply**.

## Other Provisions

- **Community connectivity.** A pilot program will provide funding for eligible entities to identify opportunities to restore community connectivity, which might involve removing or retrofitting current traffic patterns and/or transportation networks. Priority would be given to economically disadvantaged communities. (Purpose is to address federal transportation policies that had the effect of reinforcing racial and economic inequality.)
- **Fueling infrastructure.** A grant program will provide funding to increase publicly accessible infrastructure for electric vehicle charging, and also hydrogen, propane, and natural gas fueling along designated alternative fuel corridors or in certain locations that will be accessible to all drivers of electric, hydrogen, propane, and natural gas vehicles.
- **Electric/clean fuel fleets.** A grant/award program will provide funding for replacing school buses with clean school buses and zero-emission school buses. A similar program will be established as a pilot for the purchase of electric or low-emitting ferries.

**Please also refer to these KPMG Regulatory Insights Regulatory Alerts:**

- [Special Alert | Senate Passed Infrastructure Bill](#)
- [Interagency Report on Regulation of Stablecoins](#)
- [Take-aways from COP26 Finance Day](#)
- [Climate Reporting: Recent Updates Impacting Financial Services](#)

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