

Regulatory Strategy

Posted by Jack Lew on January 18, 2011 at 11:20 AM EST

OMB plays a central role in implementing a President's regulatory agenda. Through our Office of Information and Regulatory Affairs (OIRA), OMB acts as a clearinghouse for the most significant regulations and rules, making sure that policies are consistent across the federal government and with the agenda of the President. OMB also ensures that analysis of rules is done properly, according to one set of standards.

With that in mind, I want to point readers to the [op-ed that President Obama wrote](#) in today's *Wall Street Journal*, detailing his approach to regulation and the strategy that has guided his Administration from the start. As the President wrote, our aim is to "strike the right balance" between what is needed to protect the safety and health of all Americans, and what we need to foster economic growth, job creation, and competitiveness. The Administration has followed this balanced approach since taking office, and this [executive order](#) formally details our basic operating principles.

With this EO, there should be no confusion about [what guides this Administration](#) when crafting regulations. The basic tenets are: to consider costs and how best to reduce burdens for American businesses and consumers; to expand opportunities for public participation and stakeholder involvement; to seek the most flexible, least burdensome approaches; to ensure that regulations are scientifically-driven; and to review old regulations so that rules which are no longer needed can be modified or withdrawn. This smarter approach builds on the best practices of the past, while adapting to serious economic challenges the country faces today.

At times, the country has gone too far in one direction – either passing too many regulations that in turn stifle job creation and economic growth or not instituting enough oversight (as was the case with the financial sector in the years preceding the recent financial collapse). Our goal must be to institute regulations to ensure that laws passed by Congress are implemented effectively and that Americans are protected from harm. It is our firm belief, for example, that the government has an obligation to ensure that the food you eat does not poison you and the roads you drive on are safe. This Administration has already made historic progress in areas of environmental, health, automobile safety, and workplace safety, and we intend to continue. Regulations play a necessary role in a fair and prosperous society.

At the same time, we need to follow a smarter, more effective approach to regulating to ensure that these necessary protections work without stifling America's growth and competitiveness. We believe that it is particularly critical now, as our economy continues to recover and create new jobs, that our regulatory strategy be as evidence-based, predictable, cost-effective, and carefully targeted as possible to enable American businesses to continue to grow and innovate. We do this by updating the existing executive order on regulations to address today's distinctive challenges.

The Executive Order signed today outlines the following guiding principles for government agencies when crafting regulation:

- Consistent with law, Agencies must consider costs and benefits and choose the least burdensome alternative.
- The regulatory process must encourage public participation and an open exchange of views, with an opportunity for the public to comment.
- Agencies must attempt to coordinate, simplify, and harmonize regulations to reduce costs and promote certainty for businesses and the public.
- Agencies must consider low-cost approaches that reduce burdens and maintain flexibility. Regulations must be guided by objective scientific evidence.
- Existing regulations must be reviewed to determine that they are still necessary and crafted effectively; if not, they must be modified, streamlined, or repealed.
- Taken together, these principles will create a more effective and cost-efficient regulatory framework. In addition to this EO, the Administration is taking two new steps to promote this balanced approach to regulation.

First, in line with our commitment to creating a more open, transparent, and accountable government, the President directed federal enforcement agencies [to make publicly-available compliance information easily accessible, downloadable, and searchable online](#). In other words, Americans will be able to see, for their own eyes, which companies are obeying the law. This will help consumers make more informed decisions; foster fair and consistent enforcement; level the regulatory playing field; and hold government accountable for its obligations to the public.

Second, the President [issued a memo today](#) on regulatory flexibility for small businesses. Small businesses are critical to our economic growth and job creation. They also tend to have fewer resources and suffer greater harm from regulatory burdens.

This new memo reinforces the need for Federal agencies to consider ways to reduce regulatory burdens on small business. It also requires that agencies provide justifications when such flexibilities are not included in proposed regulation. Such flexibilities could include extended compliance dates; performance standards rather than design standards; simplification of reporting and compliance requirements (as, for example, through streamlined forms and electronic filing options); different requirements for large and small firms; and partial or total exemptions.

With the President's memo, agencies will be required not only to consider these alternatives for small businesses, but also to provide written justification when such alternatives are not utilized. We think this will help tilt the playing field back to level for America's small businesses.

Our regulatory goal is to strike a balance, promoting job creation and economic growth while protecting the health and well-being of Americans through effective regulations. As the President said, this is not a zero-sum game. We can and must make our economy stronger and more competitive, while meeting our fundamental responsibilities to one another.

Jack Lew is the Director of the Office of Management and Budget