



The Daily Dish

Another Step in Regulatory Reform

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Eakinomics: Another Step in Regulatory Reform

With little or no warning, the Office of Management and Budget released a [memo](#) yesterday with the spiffy title “Guidance on Compliance with the Congressional Review Act.” It reminds agencies that “The CRA provides that agencies must submit ‘rule [s],’ defined expansively, to Congress. Congress may then pass a joint resolution of disapproval that, if signed by the President or enacted over the President’s veto, invalidates the rule. If a rule is disapproved, an agency may not issue another rule in substantially the same form unless the new rule is specifically authorized by a law enacted after the date of the joint resolution disapproving the original rule.” Moreover, “To help prioritize congressional review of rules with important economic impacts, the CRA requires that OIRA designate whether a rule is ‘major,’ which signals a rule’s relative importance and economic impacts. The major designation triggers a report by GAO and a delayed effective date while Congress may consider whether it will disapprove the rule.”

So, Congress has the right to disapprove rules, and to help it pick its targets the Office of Information and Regulatory Affairs (OIRA) must identify major rules. Hasn’t this been going on? Why the new memo?

The interesting twist is that the memo is aimed not only at the executive agencies (Treasury, Labor, Interior, etc.) but also at so-called “independent” agencies such as the Securities and Exchange Commission, the Commodity Futures Trading Commission, Consumer Financial Protection Bureau, Consumer Product Safety Commission, Export-Import Bank of the United States, Farm Credit Administration, Federal Deposit Insurance Corporation, Federal Election Commission, Federal Housing Finance Agency, and many others. These agencies typically have not been subject to the process of OIRA review (and approval/rejection) of their regulations.

The memo does not assert OIRA jurisdiction over the independent agencies. It does, however, assert their obligation to inform OIRA about the costs of their regulatory activities, so that OIRA can in turn inform Congress. OIRA cannot stop their regulatory actions, but Congress can. The memo is a bit less clear on how it will enforce this change in procedure on the independent agencies.

The good news is that transparency and review of the regulatory state has been further advanced; the only question is by how much. The bad news is that this is yet another initiative undertaken by executive power that can be easily undone. A far more preferable route would be for Congress to undertake permanent regulatory reforms.