



The Daily Dish

# Expanding Regulatory Oversight

DOUGLAS HOLTZ-EAKIN | JANUARY 12, 2021

## Eakinomics: Expanding Regulatory Oversight

Dan Bosch, AAF's sharp-eyed Director of Regulatory Policy, noticed that "On the final day of 2020, the Department of Justice (DOJ) released an [opinion](#) memorandum regarding whether the regulations of independent agencies can be reviewed by the White House's Office of Information and Regulatory Affairs (OIRA), an office within the Office of Management and Budget (OMB). The opinion concludes that the president may direct independent agencies to comply with the same review process described in Executive Order (EO) 12,866." In practice, this means that OIRA would review significant draft rules from independent agencies at both the proposed and final rulemaking stages. For "economically significant" rules (having a \$100 million impact on the economy), OIRA would also review the economic analyses.

As it turns out, the opinion is dated October 8, 2019, even though it was not released until December 31, 2020. That implies the Trump Administration did not pursue expanding the net of regulatory oversight, even though it evidently could. To get a feel for the scale of the potential expansion, here is the list of potential independent agencies that could be included:

- Consumer Financial Protection Bureau
- Consumer Product Safety Commission
- Export-Import Bank of the United States
- Farm Credit Administration
- Federal Communications Commission
- Federal Deposit Insurance Corporation
- Federal Election Commission
- Federal Housing Finance Agency
- Federal Labor Relations Authority
- Federal Reserve System
- Federal Trade Commission
- National Credit Union Administration
- National Labor Relations Board
- National Transportation Safety Board
- Securities and Exchange Commission
- U.S. Commodity Futures Trading Commission
- U.S. International Trade Commission
- U.S. Nuclear Regulatory Commission
- Central Intelligence Agency
- Administrative Conference of the United States
- African Development Foundation
- Commission on Presidential Scholars
- Commission on Security and Cooperation in Europe (Helsinki Commission)
- Corporation for National and Community Service

Defense Nuclear Facilities Safety Board  
Denali Commission  
Federal Maritime Commission  
Federal Mediation and Conciliation Service  
Federal Mine Safety and Health Review Commission  
Federal Retirement Thrift Investment Board  
Institute of Museum and Library Services  
Inter-American Foundation  
Merit Systems Protection Board  
Millennium Challenge Corporation  
National Capital Planning Commission  
National Railroad Passenger Corporation  
Occupational Safety and Health Review Commission  
Overseas Private Investment Corporation (now the International Development Finance Corporation)  
Postal Regulatory Commission  
Surface Transportation Board  
Tennessee Valley Authority  
U.S. Agency for Global Media  
U.S. Trade and Development Agency

Wow.

It is pretty straightforward to imagine, for example, the Consumer Financial Protection Bureau or the Commodity Futures Trading Commission being subjected to regulatory review. But I suspect that the politics of pulling in the Federal Reserve or the Denali Commission (not to mention the Central Intelligence Agency) would be a bit too much.

Nevertheless, the opinion is now in the public domain, and any future administration has the wherewithal to expand the scope of regulatory review. In economic policy, for example, it makes sense to level the regulatory playing field across as many agencies as possible; it will be interesting to see if the Biden Administration will pursue this path.