



September 29, 2022

The Honorable Gary C. Peters
Chairman
Committee on Homeland Security
and Governmental Affairs
United States Senate
Washington, DC 2 0510

The Honorable Rob Portman
Ranking Member
Committee on Homeland Security
and Governmental Affairs
United States Senate
Washington, DC 20510

Dear Chairman Peters and Ranking Member Portman:

As the Committee takes up the nomination of Richard Revesz to serve as Administrator for the Office of Information and Regulatory Affairs (OIRA), we urge you to take this opportunity to review OIRA's primary roles. OIRA is the government's central authority for the review of executive branch regulations, approval of government information collections, establishment of government statistical practices, and coordination of federal privacy policy.

With U.S. inflation running at 40-year highs, the costs of energy, food, housing, travel, and more have increased dramatically. In today's heightened inflationary environment, the Administration's ambitious regulatory agenda can be expected to elevate prices even further. The next Administrator of OIRA, therefore, will play a critical role in shaping our economic future.

To help minimize inflationary pressures, OIRA should harness its centralized regulatory review capacity to minimize supply side impacts from the executive branch, in part, by moderating or avoiding overreaching regulatory actions. By contrast, Federal Reserve Board's efforts to slow inflation, while trying to avoid plunging the economy into a recession, are limited to the demand side of the economy. As Jerome Powell, chair of the Federal Reserve Board, recognized earlier this year, "[the Fed's] tools don't really work on supply shocks. Our tools work on demand."

Prior administrations facing high inflation recognized the adverse impact that regulations can have on consumer prices, and worked to reduce the regulatory effect on the economy. President Ford, who faced inflation over 12 percent, issued an executive order requiring agencies to develop statements in their regulations addressing the potential inflationary impacts resulting from them and centralized the review of these statements through the Office of Management and Budget. President Carter issued Executive Order 12044, requiring for the first time the review of existing regulations to identify those that were burdensome, to require the simplification or clarification of requirements, and to eliminate overlapping and duplicative regulations. President Carter was the first to promote retrospective review of regulations, a practice that has been continued by successive administrations and should again be implemented to fight today's inflation.

The regulatory planning executive orders in place today, which include President Clinton's foundational Executive Order 12866, provide some of the necessary tools that the executive branch should use to issue smart regulations, while avoiding unnecessary ones that will accelerate inflationary trends. Over 400 regulations have already been finalized across the government over the last 20 months. That's a high volume of regulations, many of which restrict or burden private activity in new, significant ways, and may have unintended consequences such as diverting scarce resources currently needed to address supply chain disruptions and labor shortages. To combat inflation, the OIRA Administrator should adhere to the principles set forth in Executive Order 12866, which directs agencies to "tailor [their] regulations to impose the least burden on society, including individuals, businesses of differing sizes, and other entities..."

For existing regulations, a new OIRA Administrator should focus on reducing cumulative regulatory costs to help reduce burdens on businesses and families alike. Executive Order 13563, issued by President Obama, guides agencies to "propose or adopt a regulation only upon a reasoned determination that its benefits justify its costs." As more sectors and businesses face a growing number of burdensome regulations, the consideration of the cumulative impacts of both new and existing regulations should be part of every agency's cost-benefit analysis.

Regulations typically pair near-term compliance burdens with accompanying immediate cost impacts. Meanwhile, the anticipated regulatory benefits are often far out in the future and sometimes speculative or unquantifiable. For example, just ten regulations from one office at the Environmental Protection Agency proposed or finalized over the last 20 months are estimated to impose more than \$400 billion dollars in regulatory costs. For perspective, those costs are larger than the first quarter 2022 gross domestic product for each of 31 different states. Therefore, the White House needs an OIRA Administrator who will promote the consideration of non-regulatory and least-cost alternatives to avoid overly burdensome or unnecessary requirements that promote, rather than reduce, inflation.

Additional tools exist for the OIRA Administrator to evaluate the unintended adverse consequences of agency regulations. While a regulation's stated goal may be to address a particular market failure or social concern, overly ambitious or ambiguous regulations could lead to a net increase in economic harm or social inequities. In addition, OIRA plays an important role in ensuring that agencies appropriately consider both direct and indirect regulatory costs so that agencies understand the full impacts of their policies when weighed against estimated benefits. Thorough and justifiable cost-benefit analysis will help increase regulatory durability and steer chosen policy options to technologically and economically feasible alternatives, achieving important policy goals at a lower cost to regulated parties and to society, and making regulation more effective, more reasonable, and more defensible.

For small businesses, the Regulatory Flexibility Act (RFA) is fundamental to helping identify feasible and lower cost alternatives for compliance. The RFA helps agencies better understand on-the-ground experiences of small business owners by requiring agency disclosure of regulatory costs on small businesses and prompting the consideration of less burdensome alternatives. The Small Business Administration's Office of Advocacy collaborates with OIRA on regulations that have a significant economic impact on a substantial number of small entities. Both agencies work with small businesses to identify alternative regulatory provisions and to avoid duplicate or overlapping

federal agency requirements. The OIRA administrator should ensure this process is transparent regarding the increased costs from new regulatory requirements and the attendant inflationary impacts on America's small business community.

The Unfunded Mandates Reform Act (UMRA) also provides an avenue for OIRA to facilitate the evaluation of regulatory impacts not only on state, local, and tribal governments, but also on the private sector, with a focus on particular sectors of the economy, on jobs, and employment. The UMRA is an important statute that provides another tool to the OIRA administrator that should be leveraged to help guide the executive branch's regulatory agenda.

The OIRA administrator also oversees agency compliance with the Paperwork Reduction Act, the law that established OIRA. Whether agencies properly account for the burden of collecting data, the utility of that data, and the need to protect the confidentiality of that data are issues that surface frequently, and which require an OIRA Administrator willing to hold agencies accountable.

The consideration of Mr. Revesz's nomination presents an opportunity for the Committee to review OIRA's important role as the central oversight body for agency regulatory policy – a role with elevated importance during the current inflationary environment. The Chamber believes that continued collaboration and dialogue between the public and private sector is the best way to ensure continued progress in a manner that enhances economic growth and avoids undue burdens on businesses and consumers. We encourage the Committee to ensure that OIRA maintains its focus on implementing smart regulatory policy that appropriately considers the cumulative effect of agency actions on the entire economy, especially during this period of economic uncertainty.

Sincerely,

A handwritten signature in blue ink, appearing to read "Neil L. Bradley". The signature is fluid and cursive, with a large loop at the end.

Neil L. Bradley
Executive Vice President, Chief Policy Officer,
and Head of Strategic Advocacy
U.S. Chamber of Commerce

cc: Members of the Committee on Homeland Security and Governmental Affairs