

MEMO# 32489

May 29, 2020

Executive Order on Regulatory Relief to Support Economic Recovery

[32489]

May 29, 2020 TO: ICI Members

Investment Company Directors

SEC Rules Committee RE: Executive Order on Regulatory Relief to Support Economic Recovery

On May 19, President Trump signed an executive order (“Order”) entitled “Regulatory Relief to Support Economic Recovery.”^[1] The Order, which applies to executive branch departments, executive agencies, and independent agencies (“Agencies”),^[2] states that it is US policy “to combat the economic consequences of COVID-19 with the same vigor and resourcefulness with which the fight against COVID-19 itself has been waged.” It indicates that Agencies should rescind, modify, waive, or provide exemptions from regulations and other requirements that may inhibit economic recovery, consistent with applicable law and certain other considerations. The Order lays out specific directives for Agency heads, as highlighted below.

In brief, the Order directs Agency heads to:

- use emergency authorities “to the fullest extent possible and consistent with applicable law” (while encouraging them also to “promote economic recovery through non-regulatory actions”);
- identify regulatory standards that may inhibit economic recovery and consider taking appropriate action “for the purpose of promoting job creation and economic growth,” such as temporarily or permanently rescinding, modifying, waiving, or exempting persons or entities from those requirements;
- consider formulating and making public “policies of enforcement discretion that...decline enforcement against persons and entities that have attempted in reasonable good faith to comply with applicable statutory and regulatory standards;”
- consider certain “principles of fairness in administrative enforcement and adjudication” listed in the Order (e.g., administrative enforcement “should be free of improper Government coercion” and of “unfair surprise”) and revise procedures and practices in light of these principles; and
- review any regulatory standards they have temporarily rescinded, suspended,

modified, or waived or other regulatory flexibilities implemented in response to COVID-19 and determine which of those would promote economic recovery if made permanent. Agency heads must report results of the review to the Director of the Office of Management and Budget (OMB), the Assistant to the President for Domestic Policy and the Assistant to the President for Economic Policy.

The Order instructs the OMB Director, in consultation with the Assistant to the President for Domestic Policy and the Assistant to the President for Economic Policy, to monitor compliance with the Order. The OMB Director may issue memoranda providing guidance for implementing the Order, including by setting deadlines for the required reviews and reports described above.

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endnotes

[1] The Order is *available at* <https://www.whitehouse.gov/presidential-actions/executive-order-regulatory-relief-support-economic-recovery/>.

[2] See 44 USC Sec. 3502. Independent agencies include the Commodity Futures Trading Commission and the Securities and Exchange Commission, among others.

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