

**MEMO# 36028**

February 21, 2025

# Presidential Executive Order Imposes New Requirements on Independent Regulatory Agencies

[36028]February 21, 2025TO:ICI MembersSUBJECTS:Litigation & EnforcementRE:Presidential Executive Order Imposes New Requirements on Independent Regulatory Agencies

On February 18, President Trump signed an executive order ("Ensuring Accountability for All Agencies") that aims to bring specified federal regulatory agencies under the President's ongoing supervision and control.[\[1\]](#)

The order begins by stating that the "Constitution vests all executive power in the President;" that "previous administrations have allowed so-called 'independent regulatory agencies' to operate with minimal Presidential supervision;" and that "it shall be the policy of the executive branch to ensure Presidential supervision and control of the entire executive branch." The order applies to "independent regulatory agencies," including the SEC, the CFTC, and many other agencies.[\[2\]](#)

The order calls for the following:

- All executive departments and agencies (including independent agencies) to submit for review all proposed and final significant regulatory actions to the Office of Information and Regulatory Affairs (OIRA) within the Executive Office of the President before publication in the Federal Register.
- The Director of the Office of Management and Budget (OMB) to provide guidance on implementation of this order to the heads of executive departments and agencies, with agency submissions to commence within the earlier of 60 days from the date of this order, or completion of such implementation guidance.
- The Director of OMB to establish performance standards and management objectives for independent agency heads and report periodically to the President on their performance and efficiency.
- The Director of OMB, on an ongoing basis, to review independent regulatory agencies' obligations for consistency with the President's policies and priorities, and consult with independent regulatory agency chairmen and adjust such agencies' apportionments by activity, function, project, or object, to advance the President's policies and priorities.[\[3\]](#)
- Independent regulatory agency chairmen to regularly consult with and coordinate policies and priorities with the directors of OMB, the White House Domestic Policy Council, and the White House National Economic Council.[\[4\]](#)

The order states that the "President and the Attorney General...shall provide authoritative interpretations of law for the executive branch," and their opinions on questions of law are "controlling on all employees in the conduct of their official duties." It concludes with several general provisions.

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#### Notes

[1] [Ensuring Accountability for All Agencies](#), Executive Order, February 18, 2025.

[2] The order incorporates the definition of "independent regulatory agency" from 44 USC Section 3502(5), which defines the term to mean "the Board of Governors of the Federal Reserve System, the Commodity Futures Trading Commission, the Consumer Product Safety Commission, the Federal Communications Commission, the Federal Deposit Insurance Corporation, the Federal Energy Regulatory Commission, the Federal Housing Finance Agency, the Federal Maritime Commission, the Federal Trade Commission, the Interstate Commerce Commission, the Mine Enforcement Safety and Health Review Commission, the National Labor Relations Board, the Nuclear Regulatory Commission, the Occupational Safety and Health Review Commission, the Postal Regulatory Commission, the Securities and Exchange Commission, the Bureau of Consumer Financial Protection, the Office of Financial Research, Office of the Comptroller of the Currency, and any other similar agency designated by statute as a Federal independent regulatory agency or commission."

However, the order does *not* apply to "the Board of Governors of the Federal Reserve System or to the Federal Open Market Committee in its conduct of monetary policy. This order shall apply to the Board of Governors of the Federal Reserve System only in connection with its conduct and authorities directly related to its supervision and regulation of financial institutions."

This order also amends Executive Order 12866 (September 30, 1993, "Regulatory Planning and Review") by expanding its definition of "agency" to include "independent regulatory agencies" and the Federal Election Commission.

[3] Moreover, "Such adjustments to apportionments may prohibit independent regulatory agencies from expending appropriations on particular activities, functions, projects, or objects, so long as such restrictions are consistent with law."

[4] Related to this requirement, (i) "The heads of independent regulatory agencies shall establish a position of White House Liaison in their respective agencies," and (ii) "Independent regulatory agency chairmen shall submit agency strategic plans developed pursuant to the Government Performance and Results Act of 1993 to the Director of OMB for clearance prior to finalization."