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## Office of Public Policy

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# Trump administration executive action alert

## Bringing independent agencies under presidential authority and deregulation

[Text of "Ensuring Accountability for all Agencies,"](#) 18 February 2025

[Text of "Ensuring Lawful Governance and Implementing the President's 'Department of Government Efficiency' Deregulatory Initiative,"](#) 19 February 2025

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### Key highlights

- **Overview**
  - On 18 and 19 February, President Trump issued two executive orders (EOs) that assert White House authority over independent agencies and aim to reduce the federal regulatory footprint.
  - The EOs give the director of the Office of Management and Budget (OMB) substantial influence over policy objectives and priorities across all government agencies. This marks a notable shift, particularly for independent agencies that have traditionally functioned without significant intervention from the White House.
  - The orders also build on the administration's deregulatory agenda aimed at reducing the number of "rules that impose heavy costs" and "end[ing] Federal overreach in regulation and enforcement," including Trump's earlier EO [ordering](#) the removal of 10 regulations for every one new regulation and an [order](#) to freeze on all pending regulations.
- The "[Ensuring Accountability for all Agencies](#)" order directs a series of changes for [independent agencies and the role of the OMB](#), including:
  - **Performance standards, budgets, agencies' strategies:** Agency heads must submit strategic plans to the OMB director for approval before finalization. In addition, the order mandates the OMB director to establish "performance standards and management objectives" for the heads of independent agencies and adjust agency budgets to prevent spending appropriated funds "on particular activities, functions, projects, or objects" that are inconsistent with the president's priorities.
    - To facilitate these objectives, independent agencies must hire a White House liaison to coordinate agency "policies and priorities with the directors of OMB, the White House Domestic Policy Council, and the White House National Economic Council."
  - **Rulemaking:** Independent agencies are directed to submit proposed and final *significant* regulatory actions for review to OMB's Office of Information and Regulatory Affairs (OIRA) before publication in the Federal Register.

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- *Significant* regulatory actions include those that have an annual impact of over \$100 million, create inconsistencies with other rules, or raise new legal or policy issues.
- The OMB director will release implementation guidance for this order, and agencies must submit significant regulatory actions for review within 60 days of the order or once the guidance is complete, whichever happens first.
- **Interpretation of law:** The EO states that only the president and attorney general are authorized to provide interpretations of law for the executive branch. Executive branch actions – including regulations, guidance and positions advanced in litigation – cannot contravene these interpretations.
- **Scope:** The order has two exceptions:
  - For the Federal Reserve, the order clarifies that the requirements apply to the regulation and supervision of financial institutions and explicitly do not cover the conduct of monetary policy.
  - In addition to independent agencies, the order applies to the Federal Election Commission (FEC), drawing campaign finance regulations under OMB review.
- The “**Ensuring Lawful Governance**” EO directs agency heads across the federal government, including independent agencies, in coordination with their DOGE team lead and the OMB director to review all regulations and guidance within their jurisdiction for “consistency with law and Administration Policy.”
  - Within 60 days, they must report the following to the OMB:
    - Unconstitutional regulations
    - Regulations exceeding federal authority
    - Regulations outside of the agency’s statutory authority
    - Regulations imposing substantial costs on private parties without sufficient benefits
    - Regulations that challenge the national interest
  - OMB will consult with agency heads to set priorities for regulations to rescind and/or modify “that are inconsistent with law or the Trump Administration’s policy.”
  - To preserve resources, the order also instructs agencies to deprioritize enforcement actions that exceed their authority and, in consultation with the OMB director, terminate enforcement proceedings that “do not comply with the Constitution, laws or administration policy.”

### Additional insights

- Through these two orders, the president is seeking to address several of his priorities: consolidating executive branch authority, ensuring agencies reflect his policy priorities and streamlining regulation. The orders have the potential to dramatically reshape federal regulations across various industries including financial services, energy, workforce and health policy.
- **Independent agencies:**
  - Today, there are around 20 [independent agencies](#) that were established over the years by Congress for reasons such as enabling bipartisan decision-making in areas viewed as technically complex. While the president appoints the leaders of these independent agencies, historically the agencies have operated in coordination but without day-to-day White House oversight.
    - Independent agencies include the Federal Reserve Board, Federal Trade Commission, Federal Energy Regulatory Commission, Federal Deposit Insurance Company and the Securities and Exchange Commission.
    - Critics of the EO have suggested that reducing the independence of these agencies could mean there is greater policy variability from administration to administration, resulting in increased market uncertainty.<sup>1</sup>

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<sup>1</sup> “Trump tightens grip on independent agencies to test limits of presidential power,” *Reuters*, <https://www.reuters.com/world/us/trump-tightens-grip-independent-agencies-test-limits-of-presidential-power-2025-02-20/>

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- Some commentators have suggested that Trump's actions to rein in independent agencies test a legal precedent set in the 1935 US Supreme Court case, *Humphrey's Executor v. United States*, which upheld the ability of Congress to create agencies with more independence from the White House.<sup>2</sup>
- The EO significantly increases the role of OMB in oversight of the regulatory landscape several ways, including by:
  - Requiring OMB review and possible revision of significant rulemaking
  - Allowing the OMB director to withhold appropriated funds for projects or initiatives that conflict with the president's policies and priorities
  - Ending agencies' ability to decide what positions to take in court
  - Requiring OMB approval of strategic plans and for OMB to set performance standards for independent agencies
- While the order excepts monetary policy activities from OMB oversight, some observers have queried whether the White House is asserting oversight of related Federal Reserve Board financial activities, such as the Fed's control of the payment systems and its lender-of-last-resort function.
- **Reducing the federal regulatory footprint**
  - The EO's focus on revoking and modifying regulations as well as consolidating oversight of rulemaking and legal interpretations is intended to reduce the cost of existing regulations on the US economy and heighten the scrutiny of the costs and benefits of any new regulatory actions.
    - While the Trump administration has already started rolling back several regulations implemented under the Biden administration, the language of the EO appears to open all regulations for scrutiny.
    - The EOs' requirement that OMB and the Department of Justice oversee legal interpretations for the executive branch, including enforcement matters, appears aimed at reducing costs as well as centralizing control over federal agencies.

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SCORE no. 26172-251US

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<sup>2</sup> "Trump tightens grip on independent agencies to test limits of presidential power," *Reuters*, <https://www.reuters.com/world/us/trump-tightens-grip-independent-agencies-test-limits-of-presidential-power-2025-02-20/>