

Memorandum of Agreement
The Department of the Treasury and the Office of Management and Budget
Review of Treasury Regulations under Executive Order 12866

This Memorandum of Agreement (MOA) provides the general terms under which the Office of Information and Regulatory Affairs (OIRA) within OMB will review regulatory actions issued by the Department of the Treasury. The terms of this MOA do not alter OIRA's or the Department of the Treasury's statutory responsibilities.¹

1. *OIRA review of Treasury regulatory actions.* Treasury regulatory actions shall be subject to the standard centralized review process under section 6 of Executive Order 12866 (including the analytical requirements of OMB Circular No. A-4), except that the following regulatory actions will not be subject to such review process:
 - (a) Tax regulatory actions, defined as a regulatory action (as defined by Executive Order 12866) issued by the Internal Revenue Service whether pursuant to Title 26 of the United States Code or with respect to any other United States Federal income, excise, estate, gift, or employment tax.
 - (b) All circulars, regulations, and rulings issued by the Bureau of the Fiscal Service that implement, through the exercise of the general borrowing power, the fiscal policies of the United States.
 - (c) Regulations issued by the Office of Foreign Assets Control (OFAC) that implement the President's foreign policy by blocking assets and imposing sanctions on foreign countries or persons, and general and specific licenses issued by OFAC.
 - (d) Regulations concerning the review of transactions by the Committee on Foreign Investment in the United States.
 - (e) Treasury regulations concerning the periodic reporting of portfolio capital positions and transactions pursuant to the International Investment and Trade in Services Survey Act and the Bretton Woods Agreement Act, and the reporting of foreign currency positions of large U.S. business enterprises and their foreign affiliates pursuant to 31 U.S.C. § 5315.
 - (f) U.S. Customs and Border Protection regulations restricting the importation of cultural property.
 - (g) Alcohol and Tobacco Tax and Trade Bureau regulations primarily pursuant to Title 26 of the United States Code or concerning the establishment or designation of geographical viticultural areas.

2. This MOA supersedes the 1983 Memorandum of Agreement between Treasury and OMB with respect to tax regulatory actions, and the 1993 letter exchange between the OIRA Administrator and Treasury General Counsel reaffirming that agreement. Further, this MOA supersedes the Guidance for Implementing EO 12866 (M-94-3), Appendix C: Regulatory Actions Exempted from Centralized Regulatory Review, Department of the Treasury (Oct. 12, 1993). Further this MOA supersedes the 2018 Memorandum of

¹ Such responsibilities include, but are not limited to, those that arise under the Paperwork Reduction Act, 44 U.S.C. §§ 3501-3520, and Subtitle E of the Small Business Regulatory Enforcement Fairness Act of 1996 (Congressional Review Act), 5 U.S.C. §§ 801-808.

Agreement between Treasury and OMB with respect to tax regulatory actions, including the 2020 Addendum to the Memorandum of Agreement between Treasury and OMB.

3. This MOA will have immediate effect.
4. Treasury and OIRA will work in good faith to ensure the practices under this MOA conform to the intent of the signatories.



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