

From: Maureen Kaplan
Sent: Monday, March 09, 2009 9:22 AM
To: FN-OMB-OIRA-Submission
Subject: Regulatory Review

Dear Mr. Orzag,

Executive Order 12866, Section 3(f) identifies a "significant regulatory action" as one that may "have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, ...". In order to evaluate the potential effects of a regulatory action on competition or jobs, you need to evaluate economic impacts, particularly facility closures. I would be very interested for you to provide guidance on the appropriate basis for examining impacts on commercial entities. A discounted cash flow analysis can be calculated on the basis of cash flow, that is, without non-cash costs such as depreciation. On the other hand, it might be appropriate to reduce cash flow by payments to principal, a balance sheet transaction, because it will affect the ability of the entity to incorporate additional costs. A third approach performs the calculation on net income. That is, depreciation is used as a proxy for continuing capital investment necessary to maintain the business operation. The third approach has difficulties because depreciation--as defined by the tax code and appears on income statements--bears little resemblance to the theoretical concept of depreciation as a measure of wear and tear over the lifetime of the investment.

My preference is for the second approach--as an ideal because it is very difficult to tease out payments to principal from financial statements--with the first approach (cash basis) being the more practical alternative.

Please provide guidance on the preferred approach for regulatory analyses or, perhaps, a ranking of the various approaches based on the information available.

I look forward to reading your recommendations and will be checking the OMB website for them.

Sincerely,

Maureen F. Kaplan

Private citizen