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Streamlining the Review of Deregulatory Actions: U.S. Office of Management and Budget Memorandum

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The United States Office of Management and Budget (“OMB”) issued an October 21st memorandum titled:

Streamlining the Review of Deregulatory Actions (“Memorandum”).

The Memorandum is directed to “Regulatory Policy Officers at Departments and Agencies and Managing and Executive Directors of Commissions and Boards” from Jeffrey Bossert Clark, Sr., Acting Administrator of Office of Information and Regulatory Affairs.

The Memorandum initially states that President Trump has:

- Has prioritized through Executive Orders and presidential memoranda, the timely and efficient execution of his deregulatory agenda.
- Ordered agencies to aggressively and quickly withdraw regulations that are facially unlawful in light of recent Supreme Court precedent.

The stated goal of the Memorandum is to offer guidance to the agencies as to how to bolster, streamline, and speed both:

1. The deregulation of facially unlawful prior government regulations; and
2. those types of deregulatory activity that will continue to require the development of more extensive agency record-building.

The Memorandum also states it establishes new presumptive timelines and guidelines for review by the Office of Information and Regulatory Affairs to make OIRA a partner in the deregulation agenda.

Components of the Memorandum include:

- GENERAL PROVISIONS DESIGNED TO SPEED AND STREAMLINE OIRA REVIEW
- Counteracting the Ossification of Rulemaking by Speeding up the OIRA Review Period
- Streamlining Compliance with Executive Orders That Impose Extensive Regulatory Processes on Agencies
- Engaging in Early and Substantive Discussions with OIRA on Deregulatory Actions
- PROVISIONS DIRECTED AT REPEALING FACIALLY UNLAWFUL REGULATIONS
- The APA’s “Good Cause” Exception and Direct Repeal of Unlawful Regulations

- Determining Whether a Regulation Is Unlawful
- PROVISIONS DIRECTED AT DEVELOPING BETTER DEREGULATORY RECORDS WHERE NECESSARY OR VOLUNTARILY OPTED FOR BY AGENCIES
- The Benefits of Deregulation
- The Uniqueness of Deregulation and Its Benefits
- Private-Conduct Liberty Benefits.
- Aggregated Impacts.
- Past Regulation Is Always Inherently Imposed Under Conditions of Uncertainty.
- Deregulation Viewed as a Codification, in Effect, of Voluntary Enforcement Priorities.

A copy of the Memorandum can be downloaded [here](#).