Regulatory Studies Center
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Feature Story

New Regulators' Budget Report Indicates Sequestration Has Little Effect on Regulatory Spending

Regulatory agencies' budgets grew faster than inflation in 2012 and 2013 and would continue to grow under President Obama's proposed budget for 2014 according to the new Regulators' Budget report released jointly by the George Washington University Regulatory Studies Center and the Weidenbaum Center on the Economy, Government and Public Policy at Washington University in St. Louis. The regulators' budget for fiscal years 2013 and 2014 indicates increases in both outlays and staffing, and does not appear to be hard hit by the sequester. The President's Budget seeks $59.4 billion in FY 2014 for regulation, a real (inflation-adjusted) increase of 3.6 percent above estimated FY 2013 outlays of $56.4 billion. Though last year's Budget projected a decline in spending at regulatory agencies, estimated outlays for 2013 are 0.9 percent higher than in 2012. The Budget also estimates personnel increases at federal regulatory agencies of 1.6 percent in 2013 and 0.7 percent in 2014, bringing the number of full-time federal employees devoted to regulation to 284,085.

Opinion

- Dodd-Frank at three: time to reform the financial reform act
- Big banks' dangerous monopoly on life
- With Joblessness High, SEC Must Get Out Of the Way of JOBS
- Heartening Moves Toward Real Progress in Bank Regulation

Marketplace of Ideas

American Action Forum

- Dodd-Frank Turns 3: What Has it Wrought?, *Sam Batkins*
- House on Regulation: Unfunded Mandate Reform, *Dan Goldbeck*
- The Week in Regulation: July 15-19, *Sam Batkins*

American Enterprise Institute

- Regulatory burdens: The impact of Dodd-Frank on community banking, *Tanya D. Marsh*

Center for Effective Government

- Senate Confirms Cordray as Consumer Financial Protection Bureau Director, *Katie Weatherford*
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In the News

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Republican-led House votes to delay core requirements of Obama's health care law, *Washington Post*
By confirming consumer agency head, Senate GOP loses leverage to demand changes, *Washington Post*
Lew says delays on overhaul rules may mean continued risk from big banks, require new options, *Washington Post*
Q&A: NLRB, a tiny government agency, plays outsize role in Senate fight over Obama's nominees, *Washington Post*
White House regs chief defends 'social cost of carbon' boost, *The Hill*
New regulations czar won't testify about ObamaCare delay, *The Hill*
Third court deals blow to Obama's NLRB recess appointments, *The Hill*
Feds to farmers: Help us identify bad regulations, *The Hill*
Fed's Raskin Urges Higher Bank Capital Standards to Avert Crises, *Bloomberg*
Interior Chief Defends Federal Fracking Regulations, *Bloomberg*
CME's Duffy Warns Senate That Proposed CFTC Rule to Hurt Brokers, *Bloomberg*
Small-Town Economic Woes Revealed in Keystone Public Comments, *Bloomberg*

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Senate overcomes GOP objections, approves Obama-pick Gina McCarthy to head EPA, *Washington Post*
Senate confirms Gina McCarthy as EPA administrator, *Washington Post*
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Public Protections, *Sam Abbott*

Center for Progressive Reform

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▪ Downwind States Deserve Protection: Supreme Court's Review of Decision Gutting Cross-State Pollution Protections Right on Point, *Victor Flatt*

▪ The Strange World of the Small Business Administration, *Daniel Farber*

▪ Senate's Confirmation of Gina McCarthy as Head of EPA a Welcome Development, *Robert Verchick*

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Competitive Enterprise Institute

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▪ Regulation of the Day 232: Pulling a Rabbit Out of a Hat, *Ryan Young*

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▪ Monday Morning Regulatory Review – 7/22/13, *Leland E. Beck*

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▪ Sequester does not appear to have constrained regulatory agency budgets, *Susan E. Dudley*

The George Washington University Regulatory Studies Center

▪ Sequester's Impact on Regulatory Agencies Modest: An Analysis of the U.S. Budget for Fiscal Years 2013 and 2014, *Susan Dudley & Melinda Warren*

▪ Sequester Does Not Appear to have Constrained Regulatory Agency Budgets, *Susan Dudley & Melinda Warren*

▪ Public Interest Comment to The Office of Management and Budget on the Consideration of Alternatives in Regulatory Impact Analyses, *Art Fraas*

▪ Public Interest Comment on The Office of Management and Budget's Draft 2013 Report to Congress on the Benefits and Costs of Federal Regulations, *Susan E. Dudley*, *Brian F. Mannix*, *& Sofie E. Miller*

during 2008 crisis, *Washington Post*
Are community banks too small to survive Dodd-Frank rules?, *The Hill*
Lawmakers concerned new carbon metric developed in secret, *The Hill*
SBA administrator leaving after August; Obama yet to name replacement, *The Hill*
White House steps up biofuel support amid escalating attacks, *The Hill*
FDIC official backs bill to create banking firewall, *The Hill*
EPA turning blind eye to cost of climate regs, chairman charges, *The Hill*
U.S. regulators scrutinize risk controls for high-frequency trading, *Reuters*
Senate confirms Thomas Perez as Labor Secretary, *The Examiner*
Fannie Mae Regulator Nominee Watt Backed by Senate Banking Panel, *Bloomberg*
High-Speed Traders' Technology Controls Are Focus of Finra Probe, *Bloomberg*
Too-Big-to-Fail Insurers to Face Tougher Capital Standards, *Bloomberg*
Carbon-Cost Change Seen by Republicans as Raising Prices, *Bloomberg*
Senate Confirms Thomas Perez as Labor Secretary, *Wall Street Journal*
Watchdog to Probe Consumer Bureau's Data Collection, *Wall Street Journal*
High-Frequency Traders' Safeguards Come Under Scrutiny, *Wall Street Journal*
Big Banks, Flooded in Profits, Fear Flurry of New Safeguards, *New York Times*

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Obamacare already working in D.C., officials say, *Washington Post*
SEC files charges against hedge fund founder Cohen for failing to prevent insider trading, *Washington Post*
As Dodd-Frank turns 3, it remains a work in progress, *Washington Post*
APNewsBreak: 1st federal study finds natural gas fracking chemicals didn't spread, *Washington Post*
New EPA chief has an ambitious to-do list, *Washington Post*
FCC issues stronger standards for disability phone service, *The Hill*
EPA names interim air pollution chief to lead carbon crackdown, *The Hill*
House GOP bill would thwart Interior's 'fracking' regs, *The Hill*
Dodd-Frank regulations would fill 28 copies of 'War and Peace', *The Hill*
US Fed reviewing banks' physical commodities trading, *Reuters*
FAA warns public against shooting guns at drones, *The Examiner*
Futures Traders Prepare for New CFTC Regulations, *Blooomberg TV*

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If Dodd-Frank doesn't work, here are four things that could, *Washington Post*
Does Dodd-Frank work? We asked 16 experts to find out, *Washington Post*
Student Health Plans Boost Coverage and Price, *Wall Street Journal*

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High-frequency trading firm fined in 'spoofing' case, *Washington Post*
New EPA chief to staff: 'This is a defining time for EPA', *The Hill*
Report: Big banks meeting with agencies 14 times more than reform groups, *The Hill*
Deputy Treasury Secretary Neal Wolin to step down; led efforts on financial regulations, *Washington Post*
US Sen. Markey calls for federal safety standards for roller coasters, other amusement rides, *Washington Post*
High-frequency trading firm Panther Energy fined in 'spoofing' case, *Washington Post*
GOP senators: EPA 'deliberately' inflating rule's benefits, *The Hill*
Bill would empower consumer watchdog to fight aggressive overdraft fees,

Government Accountability Office

- FINANCIAL COMPANY BANKRUPTCIES: Need to Further Consider Proposals' Impact on Systemic Risk, *Alicia Cackley*
- SEC CONFLICT MINERALS RULE: Information on Responsible Sourcing and Companies Affected, *Lawrance Evans*
- SECURITIES AND EXCHANGE COMMISSION: Alternative Criteria for Qualifying As An Accredited Investor Should Be Considered, *Angela Clowers*
- PATIENT PROTECTION AND AFFORDABLE CARE ACT: Status of CMS Efforts to Establish Federally Facilitated Health Care Exchanges and the Federal Data Services Hub, *John Dicken*

Heritage Foundation

- Coal Ash Bill Empowers States, *Nicolas Loris*
- Bunny Disaster Plans: Unveiling the Magic Behind Regulations, *Rich Tucker*

The Mercatus Center

- Did Deregulation Cause the Financial Crisis? Examining a Common Justification for Dodd-Frank, *Patrick McLaughlin & Robert Greene*
- Ten Principles for Better Regulation, *Jerry Ellig*
- The Economics of Regulation Part 1: A New Study Shows That Regulatory Accumulation Hurts the Economy, *Patrick McLaughlin*

Penn Program on Regulation

- States' Varied Approaches to Fracking Regulation, *Kara Cheever*

Small Businesses for Sensible Regulations

- George Washington University Regulatory Studies Center: OMB's Reported Benefits of Regulation – Too Good to Be True?
- Federal Regulators to Magicians: "Get a license and prepare a disaster plan, or lose the rabbit"

The Hill
Lawsuit filed against consumer watchdog, *The Hill*
New EPA chief exhorts agency staff to 'act now on climate change', *The Hill*
CFTC puts metals warehouses on notice of possible probe, *Reuters*
SEC urges money funds to be prepared for tri-party repo defaults, *Reuters*
Wall Street Commodity Trading in Jeopardy Amid Fed Review, *Bloomberg*
CFTC's Chilton Says 'Thoughtful Review' of Warehouses Needed, *Bloomberg*
Republicans Propose Limiting Obama Climate Plan in Budget, *Bloomberg*
Wolin Said to Be Leaving as Deputy U.S. Treasury Secretary, *Bloomberg*
Obama Said to Consider Raskin for No. 2 Treasury Post, *Bloomberg*
CFTC Charges High-Speed Trader Under New Powers, *Wall Street Journal*
A Legal Bane of Wall Street Switches Sides, *New York Times*
US Weighs Inquiry Into Big Banks' Storage of Commodities, *New York Times*

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FDA: Menthol cigarettes pose greater public health risk, seeks input on possible restrictions, *Washington Post*
Who made call to delay ObamaCare mandate? Republicans want names, *The Hill*
Sequester has little effect on regulatory spending, *St. Louis Post-Dispatch*
SEC's charges against hedge fund billionaire Steven Cohen ease agency's burden of proof, *Washington Post*
Report finds sequester barely affecting regulators, *The Hill*
EPA finalizes delayed industrial cleaning wipe rule, *The Hill*
Senior House Republican readies EPA power plant regs bill, *The Hill*
Regs chief urged to block poultry inspection rule, *The Hill*
Bill limiting EPA power draws veto threat, *The Hill*
CFTC Enforcers Bypassed Commission Votes on Probes, O'Malia Says, *Bloomberg*
Biggest Banks Face Fed Restoring Barriers in Commodities, *Bloomberg*
EPA Ozone Pollution Standard Upheld by U.S. Appeals Court, *Bloomberg*
Fed Criticized on Oversight of Bank-Owned Commodity Units, *Bloomberg*
FDA Cites Likely Risks of Menthol Cigarettes, *Wall Street Journal*
FDA Closer to Decision About Menthol Cigarettes, *New York Times*

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House panel approves bill with deep cuts for EPA, *Politico*
After a review, FDA eyeing action on menthol cigarettes, *Politico*
'Social cost of carbon' battle hits House floor, *The Hill*

Rulemaking

Food and Drug Administration

FDA Seeks Comment on Potential Menthol Cigarette Regulations

The Food and Drug Administration published an advance notice of proposed rulemaking to obtain information on the potential regulation of menthol in cigarettes. The Food Drug and Cosmetic Act (FD&C Act) gives FDA the authority to regulate tobacco products. "This includes authority to adopt a tobacco product standard under section 907 of the FD&C Act if the Secretary of HHS finds that a tobacco product standard is appropriate for the protection of public health and includes authority to amend an existing product standard. In making such a finding, the Secretary of HHS must consider scientific evidence concerning: (1) The risks and benefits to the population as a whole, including users and nonusers of tobacco products, of the product standard; (2) the increased or decreased likelihood that existing users of tobacco products will stop using such products; and (3) the increased or decreased likelihood that those who do not use tobacco products will start using such products." FDA is seeking comments on whether the Agency should consider a tobacco product standard for menthol in menthol cigarettes, whether menthol standards are requisite for products other than cigarettes, and whether FDA should restrict the advertising and promotion of menthol tobacco products. Comments are due on September 23rd.

Commodity Futures Trading Commission

CFTC Issues Exemptive Order Granting Relief for Transition to Dodd-Frank Swaps Regime

The Commodity Futures Trading Commission issued an exemptive order granting temporary relief to market participants currently transitioning to the new Dodd-Frank swaps regime. This order replaces a previous exemption that was set to expire in July, giving firms further relief to "avoid unnecessary market disruptions." The Commodity Futures Trading Commission (CFTC) acknowledges that this relief will prolong financial system's exposure to systemic risk, but without it, "market participants will be faced with significant legal uncertainty and the risk of adverse consequences to their global business, especially in light of the ongoing discussions with foreign regulatory entities and their evolving regulatory regimes." They believe that the risks are mitigated by the small five month time window provided by this exemption. In response to comments, the CFTC believes "that public notice and comment on this Exemptive Order would be impracticable, unnecessary, and contrary to the public interest."

Consumer Financial Protection Bureau

CFPB Finalizes Amendments Clarifying Certain Regulation X and Regulation Z Practices

The Consumer Financial Protection Bureau published a final rule that would amend provisions of a previous final mortgage rule issued in January. The bureau cited "the purpose of these updates is to address important questions raised by industry, consumer groups, or other agencies." The revisions help to clarify certain practices regarding Regulation X and Regulation Z, such as the preemption provision of Regulation X. In addition, the Bureau is revising the text and "adding a new official interpretation to describe qualified mortgages that are entitled to a presumption of compliance with the ability-to-repay requirements under the Dodd-Frank Act." This rule states that no additional costs have been added, and the clarification should bring cost savings to companies complying with this rule.

Securities and Exchange Commission

SEC Finalizes Rule Allowing Securities Advertising, Implementing Jumpstart Our Business Startups Act

The Securities and Exchange Commission published a final rule adopting amendments to implement Section 201(a) of the Jumpstart Our Business Startups Act. The first amendment revises Rule 506 of Regulation D permitting an issuer to engage in general solicitation or general advertising in offering and selling securities pursuant to Rule 506. The rule also amends Rule 144A of the Securities Act of 1933 which provides that securities may be offered pursuant to Rule 144A to persons other than qualified institutional buyers. The Securities and Exchange Commission believes that the benefits of this rule will be twofold. On the issuer side, the agency anticipates "that issuers will be able to reach a much greater number of potential investors than is currently the case, thereby increasing their access to sources of capital." For investors, it "will likely increase the amount and types of information about issuers and offerings that are communicated to investors, which could also lead to more efficient pricing for the offered securities."

SEC Publishes Rule Disqualifying Securities Offerings Involving Felons and "Bad Actors" from Rule 506

The Securities and Exchange Commission published a final rule to disqualify securities offerings involving felons and other "bad actors" from Rule 506. Section 926 of the Dodd-Frank Act requires the Securities and Exchange Commission (SEC) to adopt rules about disqualification of certain securities offerings. The rule states that "bad actor" disqualifications requirements are determined to be people who "have been convicted of, or are subject to court or administrative sanctions for, securities fraud or other violations of specified laws." Consistent with disqualification procedures with other rules, the SEC has outlined processes to obtain waivers for both good cause and determination of issuing authority in the rule. The SEC believes that passing this rule would reduce the amount of fraud in the Rule 506 marketplace as both existing bad actors will be removed and new bad actors will be deterred from the marketplace. Total annual paperwork burden for all affected Rule 506 issuers in complying with this rule will be approximately 22,108 hours of company personnel time.

Environmental Protection Agency

EPA Extends Comment Deadline for Controversial Proposed Formaldehyde Emissions Rule

The Environmental Protection Agency is extending the comment period for its proposed rule, *Formaldehyde Emissions Standards for Composite Wood Products*. The proposed rule sets standards for the manufacture, storage, and distribution of some composite wood products and accompanying formaldehyde emissions. The rule, which affects nearly 879,000 small businesses, would "implement emissions standards established by TSCA Title VI for composite wood products sold, supplied, offered for sale, or manufactured in the United States… these regulations apply to hardwood plywood, medium-density fiberboard, and particleboard." The proposal is estimated to result in quantified net costs of $24 million to $60 million per year using a 3% discount rate, and $57 million to $79 million per year using a 7% discount rate. However, "There are additional unquantified benefits due to respiratory and other avoided health effects. EPA considers health benefits from avoided health effects to be potentially important non-monetized impacts that contribute to the overall net benefits of this proposed rule." Comments are now due on September 9th.

EPA Publishes Final Rule Authorizing Critical Use Exemption for Methyl Bromide

The Environmental Protection Agency published a final rule authorizing a critical use exemption for methyl bromide for 2013. Previously, the Clean Air Act had phased out methyl bromide consumption and production except from allowable exemptions. In order to designate a use as critical, the agency must determine that "the lack of availability of methyl bromide for that use would result in a significant market disruption and there are no technically and economically feasible alternatives or substitutes available to the user that are acceptable from the standpoint of environment and public health and are suitable to the crops and circumstances of the nomination." The Environmental Protection Agency (EPA) has consulted governmental and academic sources, determining 562,326 kg of new production and import of methyl bromide for critical uses in 2013. The benefits of this rule would be realized from reduced costs to businesses from de-regulation and have been estimated to be between $22 million and $31 million annually.

EPA Finalizes Revisions to Energy Labeling Rule for EnergyGuide Labels

The Environmental Protection Agency finalized a rule revising standards for the Energy Labeling Rule concerning EnergyGuide labels. The Energy Labeling Rule requires energy labeling for many different major home appliances, giving consumers a way to compare competing models. This new rule amends standards regarding the information printed on the EnergyGuide labels. One of these changes is to round the national average electricity to the nearest cent rather than a fraction of a cent, and the rule also updates the average energy costs to the most recently calculated national averages. The Environmental Protection Agency (EPA) believes that these changes will help simplify and improve the disclosure of energy information to consumers. Comments received by the EPA suggest that new testing procedures for refrigerators and clothes washers will cause a significant change in the information on the labels of new products. The EPA has given a temporary exemption to these two industries so that EnergyGuide labels will state whether the product was tested under the old or new standards.

EPA Approves Use of Barley Ethanol in Renewable Fuel Standards Program

The Environmental Protection Agency published a notice regarding the data availability of its draft analysis of the lifecycle greenhouse gas emissions of ethanol produced from barley. The agency's Renewable Fuel Standard (RFS) program set minimum greenhouse gas reduction thresholds for biofuels: 60% for cellulosic biofuel, 50% for biomass-based diesel and advanced biofuel, and 20% for other renewable fuels. Ethanol produced from barley meets the 20% standard given it produced in a "dry mill facility that uses natural gas for all process energy, uses electricity from the grid, and dries up to 100% of distillers' grains." Furthermore, the Environmental Protection Agency (EPA) analyzed two methods of barley ethanol production that would meet the advanced biofuel standard of 50% reduction of greenhouse gases. The analysis also provides predictions on the agro-economic impacts of increased demand for barley as a biofuel product, giving insight on how supply and demand for different agricultural products as well as shifts in trade patterns. Comments are due August 22nd.

Federal Reserve System

Fed Board Proposes Revisions to Market Risk Capital Rule Using OECD Country Risk Classifications

The Federal Reserve Board published a proposed rule to revise its market risk capital rule in regards to changes by the Organization for Economic Cooperation and Development (OECD) to its country risk classification (CRC). Specific risk capital requirements for sovereign debt not backed by the United States are calculated using the CRCs published by the OECD; this rule recognizes the changes recently made to the classification of countries and their debts in the CRCs. Furthermore, clarifications on the treatment of certain traded securitization positions and the timing of required market risk disclosures are provided by this rule. The Federal Reserve board believes that these changes would "conform the Board's current market risk rule to the material requirements in the Board's new capital framework and thereby allow the current market risk rule to serve as a bridge until the new capital framework becomes fully effective for all banking organizations." Comments are due on September 3rd.