

– FACT SHEET –


## The Office of Management and Budget Takes a Wrong Turn as It Seeks Input on Ways to Weaken Already Inadequate Agency Law Enforcement

### The Administration Once Again Stands up for the Bad Guys by Seeking to Disarm the Cops on the Beat

**THE “REQUEST FOR INFORMATION.”** In January this year, the Executive Office of the President, within the Office of Management and Budget (OMB), issued a Request for Information (RFI) seeking input on ways to “reform” regulatory enforcement and adjudication. Invoking sympathetic concepts such as “due process,” the RFI suggests, without any support or data, that administrative agency investigations and enforcement actions are not always “just and reasonable” and that individuals and companies under investigation or named in an enforcement action for violating the law need further protections. It therefore seeks input on possibly “significant reforms in the context of administrative enforcement and adjudication.” Among the topics of interest cited in the RFI are questions focused on making it more difficult to conduct thorough investigations, encumbering the hearing process with more technical rules of evidence, and possibly even subjecting agency staff to more outside pressure as they seek to do their jobs and enforce the law.

**OUR JOINT COMMENT LETTER.** The RFI is riddled with false premises and misguided ideas, which, if implemented, would make law enforcement by agencies far more difficult and allow far more bad actors to prey on investors, consumers, and the public at large without being held accountable. To make these points, [Better Markets joined with 15 other public interest organizations in a comment letter](#) filed on March 16, 2020, warning against the suggested “reforms.” The comment letter drives home these core points:

- As with so many de-regulatory proposals emerging from this Administration, the RFI provides no factual or legal basis for the notion that administrative enforcement should be weakened under the pretense of making it more fair.
- The RFI is slanted entirely in favor of those who are suspected of violating the law, without the slightest mention of the countless victims of unlawful behavior who suffer harm every day at the hands of bad actors who cheat, defraud, and otherwise abuse consumers, investors, and all citizens who depend on fair commerce and law-abiding businesses.
- Administrative agency enforcement plays a crucial role in ensuring that regulated industries obey the law and refrain from exploiting the public. They apply their special expertise to help punish and deter violations of the law and, in many cases, they restore money to the victims of predatory or other unlawful behavior. The extraordinarily effective enforcement program of the Consumer Financial Protection Bureau, in the agency’s heyday, stands out as a prime example.

- 
- Administrative enforcement already provides many benefits to regulated industries, as it offers generally faster, more flexible, and less expensive investigation and hearing procedures, compared to court actions. At the same time, it also affords respondents ample fairness and due process rights, including multiple layers of appeal. And the sanctions imposed by agencies are if anything too low to effectively punish and deter law violators, not too high.
  - Our elected representatives in Congress decided decades ago that regulatory oversight and enforcement of the law by administrative agencies was an important element in the mix of governmental approaches to protecting the public from lawless behavior in many industries. Far from being weakened or possibly even neutered through the efforts of an office within the Executive Branch, the authority of administrative agencies to investigate and enforce the law should be protected and strengthened.

**WHAT'S NEXT.** Better Markets and its fellow organizations that signed the comment letter will watch carefully to see what concrete de-regulatory proposals follow from this dangerous RFI. We expect to submit comments on any specific proposals that emerge, to advocate strenuously against the disarming of the agencies, and if appropriate, to pursue legal challenges.

---

**Better Markets** is a public interest 501(c)(3) non-profit based in Washington, DC that advocates for greater transparency, accountability, and oversight in the domestic and global capital and commodity markets, to protect the American Dream of homes, jobs, savings, education, a secure retirement, and a rising standard of living.

Better Markets fights for the economic security, opportunity and prosperity of the American people by working to enact financial reform to prevent another financial crash and the diversion of trillions of taxpayer dollars to bailing out the financial system.

By being a counterweight to Wall Street's biggest financial firms through the policymaking and rulemaking process, Better Markets is supporting pragmatic rules and a strong banking and financial system that enables stability, growth and broad-based prosperity. Better Markets also fights to refocus finance on the real economy, empower the buy-side and protect investors and consumers.