

February 22, 2017

The Honorable Gary D. Cohn
Director, National Economic Council
The White House
1600 Pennsylvania Avenue, NW
Washington, DC 20500

Dear Mr. Cohn:

Jamie Dimon
JPMorgan Chase & Co.
Chairman

David M. Cote
Honeywell
Vice Chair

Marillyn A. Hewson
Lockheed Martin
Vice Chair

Andrew N. Liveris
The Dow Chemical Company
Vice Chair

Joshua Bolten
President & CEO

Jessica Boulanger
Senior Vice President

Marian Hopkins
Senior Vice President

William C. Miller, Jr.
Senior Vice President

LeAnne Redick Wilson
Senior Vice President

Maria Ghazal
General Counsel

President Trump has made clear his intent to consider the cumulative impact of federal regulations on the U.S. economy to identify whether certain regulatory burdens can be reduced without undermining critical protections for consumer health, safety and the environment. Business Roundtable recently conducted a survey of its members to identify recent regulations that are of most concern across all our business sectors. The majority of these regulations directly and negatively impact economic growth. While some of the listed regulations in isolation may not appear significant to growth, their cumulative effect has drained resources from innovation and job creation and directed them to non-value adding administrative and bureaucratic activities. I have attached this “Top Regulations of Concern” list, along with recommendations to mitigate their impact. It is important to note that Business Roundtable is not proposing that all regulations on this list be repealed, although some are so deficient they cannot easily be fixed. Others can be improved, however, by providing additional compliance flexibility, which will help to reduce unnecessary costs and compliance burdens.

While addressing existing regulations that are unduly burdensome is vitally important to help jump-start American business investment and job creation, Business Roundtable believes that fundamental regulatory process reforms are key to ensuring long-term success. In addition to our Top Regulations of Concern, I am attaching a list of administrative actions that can be implemented immediately to improve the efficiency and effectiveness of the existing regulatory process. Other recommendations, including codification and improvement of the cost/benefit analysis required by Executive Order 12866, will require legislation, which will take time.

Lastly, as the Administration considers new policies with regard to immigration or the expansion of “Buy America” requirements, Business Roundtable stands ready to assist to prevent unintended consequences that would inhibit the ability for U.S. companies to drive economic growth and be globally competitive.

February 22, 2017

Page 2

Please feel free to contact us if you have any questions or if we can be helpful in any way.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark J. Costa". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Mark J. Costa
Chairman and Chief Executive Officer
Eastman Chemical Company
Chair, Smart Regulation Committee
Business Roundtable

Attachment (1)

C: Reince Priebus, The White House

Business Roundtable's Top Federal Regulations of Concern, by Topic

Energy and Environment

Regulation	Description and/or Recommendation
Ozone NAAQS Implementation rules guidance and policies	In lowering the national ambient air quality standards (NAAQS) for ground-level ozone in 2015, the Environmental Protection Agency hampered economic growth in vast sections of the country without delivering additional, meaningful health benefits. The Administration should delay the final implementation rule to allow a more accurate consideration of the impact of background ozone levels on the ability of states to meet the new standard. It should also consider how such a standard would affect the ability of industry to expand production in the United States.
Clean Power Plan	The EPA has proposed new source performance standards for electric utilities that prevent new coal-fired units from being built unless equipped with carbon capture and control technology; existing plants would also face stringent new limits. Currently blocked by the federal judiciary, the Clean Power Plan should be recrafted to address concerns about EPA overreach infringing on state authority, while providing maximum flexibility for compliance.
Clean Water Rule: Definition of "Waters of the United States"	The EPA's 2015 "Waters of the United States" rule vastly expanded federal jurisdiction over state waters, with serious implications for local economic development. Currently under review by the federal judiciary, this rule should be pulled back by the EPA.

Health Care

Regulation	Description and/or Recommendation
Employer reporting requirements under the ACA	The Affordable Care Act's reporting requirements apply to all employers with 50 or more full-time or equivalent employees, imposing significant administrative costs. BRT supports streamlining or eliminating ACA employer reporting requirements.
Equal Employment Opportunity Commission (EEOC) actions regarding wellness programs	The Equal Employment Opportunity Commission (EEOC) has proposed standards for employer-sponsored wellness plans that differ needlessly from those established under the Affordable Care Act. Business Roundtable supports an Administration-wide, coordinated, consistent policy with respect to ACA-encouraged, employer-sponsored wellness plans.
Excise tax on health care benefits under the <i>Affordable Care Act (ACA)</i>	Under Section 49801 of the Affordable Care Act, if the aggregate cost of "applicable employer-sponsored coverage" provided to an employee exceeds a statutory dollar limit, which is revised annually, the excess is subject to a 40 percent excise tax. The broad application of the 40 percent excise tax means that, over time, the health benefit plans of all major U.S. employers will be subject to the tax. The impact of the eventual tax liability resulting from this provision is staggering and will distort the employer-sponsored health care marketplace, leading to dramatic changes in the benefits offered to employees. Business Roundtable supports eliminating the excise tax.

Tax

Regulation	Description and/or Recommendation
Treasury Department’s Debt/Equity Final and Temporary Regulations under Sec. 385 of the Internal Revenue Code	In 2016, the U.S. Treasury Department issued regulations under Sec. 385 of the Internal Revenue Code that would reclassify certain related-party debt instruments as equity for U.S. tax purposes and impose new documentation requirements on related-party debt. Business Roundtable urges the Trump Administration to withdraw Treasury’s Oct. 13, 2016 final and temporary Sec. 385 regulations. Significant policy changes, such as those proposed in the Sec. 385 regulations, should be addressed via tax reform legislation, not regulation.

Workforce

Regulation	Description and/or Recommendation
Overtime Regulations	New final regulations under the Fair Labor Standards Act (FLSA) will increase the annual salary threshold used to determine which employees are eligible for overtime pay from \$23,660 to \$47,476. The regulations affect longstanding employment models and impose additional costs that would hurt employers’ ability to hire more workers. Business Roundtable is particularly concerned with the implications of giving the U.S. Department of Labor authority to automatically increase the salary threshold to salary levels, whether based on inflation or using a 40 percentile threshold indexed to the weekly earnings of all full-time salaried workers nationwide. At the same time, the new regulations failed to remove complexities and uncertainties that would have made the rules easier for employees and employers.
Fair Pay and Safe Workplaces Executive Order (EO 13673)	Federal regulations that would implement a 2014 Executive Order (Fair Pay and Safe Workplaces) unnecessarily burdens the federal contracting process, would add \$474 million in regulatory costs, and will increase litigation while pressuring employers to settle meritless claims. BRT requests the President sign H.J. Res. 37, a resolution of disapproval under the Congressional Review Act that would invalidate these regulations.
EEOC’s Revised Employer Information Report	The Equal Employment Opportunity Commission’s (EEOC) requirement that employers submit pay data on revised report forms beginning in 2018 imposes sizable compliance burdens on businesses while failing to yield useful information on discrimination. The policy was not established through formal rulemaking, so the new EEOC Chairman should review the policy and the commission should rescind it if warranted.

Internet Regulation

Regulation	Description and/or Recommendation
FCC Open Internet Order	The FCC’s Open Internet Order imposed on the nation’s broadband providers is based on outdated utility regulations that will slow investment and innovation. Business Roundtable supports both congressional and FCC action to protect net neutrality without the unworkable rules designed for the last century’s marketplace and technology.

National Security/Controlled Exports

Regulation	Description and/or Recommendation
Export Controls	Executive Branch agencies should expedite the approval process and eliminate unnecessary and onerous administrative requirements for exports to allies and parties in support of U.S. national security policy.

Corporate Governance and Financial Services

Regulation	Description and/or Recommendation
Shareholder Proposal Process	In too many cases, activist investors with insignificant stakes in public companies make shareholder proposals that pursue social or political agendas unrelated to the interests of the shareholders as a whole. BRT released specific recommendations on ways to reform the shareholder proposal process to tighten eligibility and enable more exclusions of proposals and repeat submissions. BRT can accomplish most of its goals through SEC rulemaking, interpretation and guidance but pressure from Congress, including potential legislative action would encourage the SEC to move forward.
CEO Pay Ratio Disclosure	The Dodd-Frank Act directed SEC to promulgate rules that would require companies to calculate and disclose CEO pay as a ratio of average employee pay. The pay ratio rule, which requires chief executives to certify what is an arbitrary and often meaningless number, provides no material information to shareholders or investors. In addition, for global companies with multiple categories of employees, reliable information is difficult to gather. Business Roundtable supports both reconsideration of the rule by the SEC and full repeal by Congress.
Conflict Minerals Disclosure Rule	The Dodd-Frank Act directed SEC to promulgate rules to require public companies to annually disclose if their products contain “conflict minerals” originating in the Congo or adjoining nations. These rules impose extraordinary compliance costs while failing to demonstrate humanitarian benefits in Africa. Business Roundtable supports both reconsideration of the rule by the SEC and full repeal by Congress.
Margin Requirements for Uncleared Swaps	The Dodd-Frank Act directed U.S. regulators to require market participants to exchange margin when transacting in over the counter (OTC) derivatives. Regulators should provide a transitional period for compliance with variation margin requirements taking effect March 1.

Federal Regulatory Process Reforms Supported by BRT Member Companies

Regulatory Process Reform	Description of Legislative or Administrative Action
Cost-benefit analysis for independent regulatory agencies	Expand EO 12866 (which requires cost/benefit analysis to be conducted on “major” rules) to apply that requirement to independent regulatory agencies.
Encouraging greater use of advance notices	Encourage early public engagement in rulemaking through greater use of advance notices of proposed rulemaking (before a proposed rule has been written) or through a notice of initiation.
Improving retrospective review	Improve retrospective review by requiring all new major rules to include a retrospective review plan.
Reducing agency deference (Chevron)	Reduce or eliminate the amount of deference that courts give to agency interpretations of laws or regulations.
Requiring agencies to post current information	Require agencies to post current information on all potential regulations, including expected timing and costs, online.
Setting more rigorous standards for guidance documents	Set more rigorous standards for guidance documents, such as notice and comment for significant guidances.