



**Examination of the Effects of Regulatory Policy on the Economy  
and Business Growth**

**Testimony by**

**Karen Kerrigan  
President & CEO  
Small Business & Entrepreneurship Council**

**Before the**

**Subcommittee on Regulatory Affairs and Federal Management  
Committee on Homeland Security and Government Affairs  
United States Senate**

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**The Honorable James Lankford, Chairman  
The Honorable Heidi Heitkamp, Ranking Member**

*Protecting small business, promoting entrepreneurship*

Chairman Lankford, Ranking Member Heitkamp and members of the subcommittee, thank you for holding this important hearing today and for the opportunity to provide testimony on the effects of regulatory policy on the economy and business growth. The Small Business & Entrepreneurship Council (SBE Council) is encouraged by the fact that federal agencies are taking steps to streamline and modernize rules, and examining how regulation may be impacting U.S. entrepreneurship and small business growth. The general direction of policy as well as a recent series of reform initiatives have helped to improve the U.S. policy ecosystem, and in turn have enabled startup activity and strong small business growth across the United States.

My name is Karen Kerrigan and I serve as President & CEO of SBE Council - a nonprofit, nonpartisan advocacy, research and education organization dedicated to protecting small business and promoting entrepreneurship. For nearly 25 years, SBE Council has worked on a range of private sector and public policy initiatives to strengthen the ecosystem for healthy startup activity and small business growth. In addition to research and advocacy, SBE Council provides educational tools and content to help startups, small businesses, and entrepreneurs better compete and succeed in the marketplace.

The direction of regulatory policy over the past eighteen months or more has had a positive impact on the economy and small businesses. Regulatory relief along with a lighter volume of new regulation have helped to markedly improve small business confidence and the outlook of entrepreneurs, which has translated into a better business environment, higher sales and revenues for small businesses, and expansion and growth opportunities for these firms. Policy matters for small businesses, and they view the current regulatory path as being a constructive one that has allowed them to focus more intently on business growth and take additional risk.

### **Small Businesses Are Confident**

When it comes to small business confidence, various surveys show comparable findings: It is exceptionally high.

- According to the third quarter [2018 Wells Fargo/Gallup Small Business Index](#) survey (released on August 7, 2018), “small business optimism is at an all-time high.” The report indicated that optimism has reached its highest level in the survey’s 15-year history, as reflected in small business owner attitude about their finances and projected cash flow: “78 percent of small business owners reported their financial situation today is very or somewhat good, and 84 percent of business owners said they expect their financial situation will be very or somewhat good a year from now... Over the next year, 77 percent expect their cash flow to be very or somewhat good.” According to the report, credit conditions have also vastly improved.
- The [NFIB’s Small Business Optimism Index for August 2018](#) found that optimism reached a new record in the survey’s 45-year history, “topping the July 1983 highwater mark.” According to the report, high optimism is “driven by small business owners executing on the plans they’ve put in place due to dramatic changes in the nation’s economic policy.”

- The [Spring 2018 Bank of America Business Advantage Small Business Report](#) (released April 26, 2018) reported that “confidence in the economy – both at the national and local levels – is the highest it’s been since 2015 and the second-highest in the history of the report.”

An important take-a-way from these reports is that small business confidence has stayed strong and consistent for a solid stretch of time, which is creating a virtuous circle of activity - such as expansion, hiring, wage increases and investment – all of which are critical for innovation, higher quality jobs, and the overall economy and its competitiveness. It is essential that elected officials and policymakers stay on a reform-minded path, as stability and consistency will help to sustain the stronger growth and confidence we are experiencing, and ensure that individuals and families left behind benefit from this period of growth.

## **Regulatory Signals**

For small businesses, the change in the direction on regulatory policy has been a welcome development. The President’s Executive Orders on streamlining regulation and cutting red tape ([EO 13771](#) and [EO 13777](#)), combined with actions by the Congress on broad regulatory reform, and in specific areas (like reforms to improve capital access, for example) have made good on the regulatory signals that were sent to small business owners about where federal policy and actions would be headed at the beginning of the new Administration and during the 115<sup>th</sup> Congress. These signals, and subsequent action, have provided a very powerful boost to entrepreneurs and small businesses.

As we know, Executive Orders (EOs) come and go with each Administration and as we’ve experienced over the past twenty-five years in our work with four different Administrations, presidential leadership is critical to ensuring EOs are followed, implemented and sustained. SBE Council has seen meaningful action by the agencies to fulfill President Trump’s directives to reduce red tape and examine existing rules for potential modernization, streamlining or repeal. SBE Council staff and our members have participated in many roundtable meetings and events to provide our ideas and feedback on reforms. And we are pleased that small business participation specifically is driving momentum for important reforms that address the pain points of small businesses, such as access to capital, affordable health coverage, and regulatory excess or uncertainties that have harmed small firms in specific industries.

We are very pleased that the Small Business Administration (SBA) Office of Advocacy has stepped up to assist with these regulatory policy EOs by weighing in as an independent voice and platform for action for small businesses. Advocacy has conducted significant outreach to small businesses in order to identify regulations for federal agencies and departments that are ripe for relief and reform. This activity is ongoing and has been very effective.

For example, in direct response to EO 13771 and EO 13777, Advocacy is making sure that entrepreneurs and small business owners are being heard by hosting [regional roundtables](#) as well as through an [online portal to collect ideas and suggestion for regulatory changes](#). SBE Council is very active in promoting these activities, as we are confident that Advocacy will finish the job by making sure the appropriate regulatory agencies and/or staff “hear” the specific concerns and ideas of small business owners.

As we have observed by reading Advocacy’s ongoing reports regarding their engagement with small business owners, they are hearing what SBE Council hears from small business owners on a daily basis – that entrepreneurs understand some regulation is necessary, but federal rules need to be fair, practical, right-sized and take into consideration the compliance burden that regulation imposes on small firms because they have limited resources and are disproportionately impacted by regulation.

The list of regulations identified by small business owners at these regional roundtables held over the past thirteen months cover a very wide range. But this should come as no surprise to those who understand the role that small businesses play in the U.S. economy, as they dominate almost every sector.

At these events, small business owners representing various industries addressed how specific regulations – whether described as outdated, inappropriate, too restrictive or one-size-fits-all - undercut their competitiveness and make business operations more costly or difficult. In total (and this does not include comments provided via the online portal) at least 24 different agencies are mentioned, covering scores and scores of regulations. I commend the SBA Office and Advocacy, under the leadership of Acting Chief Counsel Major Clark, for this important work. The office is posting reports on a timely basis and communicating the findings from these roundtables to the leaders of federal agencies and departments, which include the specific regulations identified by small businesses (and how they might be reformed) so that government officials can make informed decisions about additional steps that lead to changes.

The SBA Office of Advocacy has been an enduring bright spot for small businesses across Administrations and that is why we have supported reforms that increase their capacity, and therefore their positive impact for small businesses.

### **Small Business and Effective Regulatory Reform**

While “government regulation” has diminished as a top concern for many small business owners, it is still viewed as overbearing by a sizable portion of the small business community. For example, in an August 2018 [Bi-Annual Trends Report](#) from Small Business Expo, more than half or 51% of respondents said there is too much government regulation. Forty-two percent of business owners say there are just enough regulations, and seven percent believe there isn’t enough. We also have to keep in mind that regulatory burden varies greatly by industry and the location of a small business. Some states and localities impose a greater volume of regulation and mandates on businesses than others – which translate into higher costs.

A less onerous regulatory environment is ideal for entrepreneurship and strong small business growth. This has become a widely shared principle that has spurred countries across the globe to improve their regulatory systems. As noted by Kristalina Georgieva, Chief Executive Officer, The World Bank in a foreword for the [“Doing Business 2018”](#) report, which presents quantitative indicators on business regulation and the protection of property rights across 190 economies: “Over the past decade, more than 60 economies have established regulatory reform committees that use the Doing Business indicators. As a result, governments have reported more than 3,180 regulatory reforms, including about 920 reforms that have been inspired by Doing Business.”

These reforms have largely been inspired, and led, by business leaders and government officials in these many countries who understand that it is important to lower government barriers to encourage investment and entrepreneurship. In addition to my work with SBE Council advocating for U.S. entrepreneurs and small businesses, I have traveled to many countries to help government leaders understand, create and implement policies to encourage entrepreneurship and small business growth. The good news is that massive reforms have been enacted across the globe to help spur entrepreneurship, attract foreign investment, and enable capital formation. In terms of the U.S., it is important that we never become complacent in this regard. We must continually improve our policy environment, and that includes our regulatory systems. As small business owners have been stating for many years, the federal regulatory system is often unresponsive to the needs of startups and small businesses and regulators need to seek their input at the front end of the regulatory process and continually review what is on the books.

That is why SBE Council strongly supports the regulatory reform measures advanced by the Homeland Security and Government Affairs Committee, including the “Small Business Regulatory Flexibility Improvements Act” (S.584), which builds upon the success of the Regulatory Flexibility Act (RFA). It creates a more uniform process by which the RFA would apply to proposed rules, and its broader application and measures would result in smarter regulation and a more accountable regulatory system for small businesses. Even though the RFA has been inconsistently applied or ignored over the years, it has still saved small businesses billions (more than \$130 billion) in regulatory costs since these savings started to be quantified in 1998. (According to the SBA Office of Advocacy in its [Report on the Regulatory Flexibility Act, FY 2017](#), \$913.4 million in regulatory cost savings were realized for small businesses in 2017.) SBE Council believes the federal government can do better.

For regulations to be small-business friendly, the process must be an informed one that incorporates relevant information and data regarding their impact and practicality. Small businesses must be included in this process, and all agencies need to abide by this framework. S.584 does this by:

- Requiring a full economic impact of proposed regulations by including both direct and indirect effects that are “reasonable foreseeable.”
- Modifying the rulemaking process to include an initial regulatory flexibility analysis requiring each to contain more detailed information about a proposed rule, including why agency action is being considered; the objectives and legal basis for the proposed rule; an estimate of the number and types of small entities to which the proposed rule will apply; the projected compliance requirements and the type of professional skills needed for such reporting; a list of existing federal rules that may duplicate, overlap or conflict with the proposed rule; the estimated cumulative impact (by agency) of the proposed rule; the disproportionate impact that a proposed rule may have on small businesses; and whether the proposed rule may impact access to credit.
- Including within the final regulatory flexibility analysis a detailed description of any disproportionate economic impact on small entities or a specific class of small entities, the agency’s response to comments for certification, a detailed statement including an economic

assessment (a quantifiable or numerical description of the effects of the proposed or final rule and alternatives to the proposed or final rule) to support certification (or why quantification or numerical description is not practical or reliable), and readily available access to the analysis by the public.

- Increasing the power and oversight authority for the Chief Counsel for Advocacy of the SBA to more effectively monitor the regulatory process for small businesses, obtain data related to impact and costs (including the effect of a proposed rule on startups), and engage with all relevant parties to ensure requirements are being fulfilled.
- A periodic review of the rules, which includes the direct engagement of the small business community and agency accountability regarding the process and outcome of the review.
- The waiver of fines for first-time violations of paperwork requirements by small businesses.
- Soliciting input from affected small businesses or associations of small entities in preparing compliance guides.
- Bringing IRS regulations under the RFA and SBREFA requirements.

### **Sustaining Robust Growth**

Along with strong small business optimism, the economy has improved markedly under policies that have unleashed investment and more risk-taking activity. Sound regulatory policy is a vital to encouraging this productive activity and sustainable growth. Recent economic indicators continue to be very positive:

- The July [personal income report](#) from the U.S. Bureau of Economic Analysis (BEA) released on August 30, continues a streak in growth which reinforces the growing strength of the U.S. economy. Since July 2016, real per capita disposable income experienced growth in 23 of the last 25 months with now 13 straight months of growth, rising from \$42,726 (in 2012 dollars) in June 2017 to \$43,769 in July 2018.
- The BEA released its [second estimate of second quarter GDP](#) on August 29<sup>th</sup>. The topline revision of real GDP growth was positive, with the second quarter growth rate estimate moving from 4.1 percent to 4.2 percent. [In a review of this data](#), SBE Council chief economist Raymond Keating observed that strong business investment (revised up from 7.3 percent to 8.5 percent in the second quarter) was a key component of this upward revision. Strong investment means business owners and entrepreneurs are confident, which helps to strengthen productivity and wages.
- The Federal Deposit Insurance Corporation's (FDIC's) [latest quarterly banking profile](#) (released on August 23) shows that Community Banks are performing well, which is good news for small business lending. In fact, according to the FDIC report, small business lending has been on the rise with small commercial and industrial, and nonfarm nonresidential (properties) loan balances at \$632.5 billion in the second quarter. That was up from the end of 2017 (\$623 billion), and compared to \$618.7 billion a year earlier.

- The Bureau of Labor Statistics (BLS) September 7 [second quarter productivity report](#) (revised only slightly from the preliminary estimate in mid-August) shows rising productivity. Specifically, productivity rose by an annualized 2.9 percent rate, the best productivity performance since the first quarter of 2015, and a big step up from 0.3 percent in the first quarter and -0.3 percent in the fourth quarter 2017.

- As noted by Kevin Hassett, Chairman of the Council of Economic Advisors, in a September 10 report on the economy, new businesses [as measured by applications for an employer identification number \(EIN\)](#) have steadily increased on a quarterly basis with a surge in new activity, particularly in 2018. For example, EIN applications increased from 704,961 in 2015 Q1, to 725,012 in 2016 Q1, to 771,445 in 2017 Q1, to 852,991 in 2018 Q1.

This fertile environment consisting of strong investment, solid consumer confidence, increased startup activity, improved revenues and sales for small businesses, an uptick in wages and stronger lending can be sustained with policies that generate certainty for businesses. Entrepreneurs and small business owners have a very favorable outlook moving forward, and SBE Council appreciates the work of this subcommittee and its leaders who have helped to create the environment for entrepreneurial success and wish to do more on the regulatory reform front to ensure economic growth and opportunity are sustained over the long term.

Respectfully submitted by,

Karen Kerrigan

**200 Lawyers Road NW • #1506 • Vienna, VA 22183 • 703-242-5840**  
**[www.sbecouncil.org](http://www.sbecouncil.org) • @SBECouncil**

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