



# 2020

## Annual Report To Congress

*Small Business Relief,  
Recovery, Revitalization*



Office of the  
NATIONAL OMBUDSMAN



# 2020 ANNUAL REPORT TO CONGRESS

*Small Business Relief, Recovery, Revitalization*

**UNITED STATES SMALL BUSINESS ADMINISTRATION  
OFFICE OF THE NATIONAL OMBUDSMAN**

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Administrator

U.S. SMALL BUSINESS ADMINISTRATION

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OFFICE OF THE NATIONAL OMBUDSMAN**

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[www.sba.gov/ombudsman](http://www.sba.gov/ombudsman)

## EXECUTIVE SUMMARY

The U.S. Small Business Administration (SBA) Office of the National Ombudsman (ONO) was established in 1996. ONO represents small businesses subjected to unfair or excessive federal regulatory enforcement actions.

ONO's advocacy for small businesses starts with its federal agency partnerships and Regional Regulatory Fairness Boards. ONO conducts nationwide outreach to small businesses who need regulatory assistance, tracking trends related to regulatory enforcement issues, and reporting findings to the SBA and to Congress, while maintaining a focus on the revitalization and recovery of small businesses nationwide. ONO also rates federal agencies on their compliance with the Small Business Regulatory Enforcement Fairness Act (SBREFA), helping to mitigate excessive fines, penalties, and other unfair enforcement actions taken against small businesses. Through its active engagement with trade associations, federal agencies, and other resource partners, ONO seeks relief for small businesses experiencing unfair regulatory enforcement actions.

### FY2020 Accomplishments

Throughout FY2020, the SBA and ONO sought to ensure fair regulation of small businesses while encouraging economic growth and recovery through entrepreneurship and outreach.

Due to the cancellation of many events during the pandemic, ONO had limited ability to participate in outreach forums. Despite these challenges, ONO successfully completed 41 outreach events in FY2020 and heard from small business owners, entrepreneurs, and lenders representing various industries nationwide. ONO's outreach strategies centered around three areas: innovation hubs representing sources of job creation, economically distressed regions, and mid-tier cities with a high concentration of small businesses facing regulatory challenges. Additionally, ONO contacted national trade organizations that represent small businesses by using marketing materials and hosting webinars for key executives of small businesses. The SBA established a plan to raise internal awareness about the National Ombudsman's services and identify opportunities for the National Ombudsman to participate in virtual events across the country in collaboration with the Office of Field Operations.

Increased awareness of ONO's services and pandemic implications caused an increase in the number of complaints ONO received in FY2020. ONO has received, on average, nearly 400 complaints each year during the past five years. As a result of the new programs established by the Coronavirus Aid, Relief, and Economic Security Act (CARES) Act in FY2020, ONO received 689 informal inquiries, which were effectively referred to the appropriate program offices. ONO additionally intervened on behalf of 484 small businesses that filed formal complaints. ONO identified, escalated, and successfully resolved four regulatory compliance concerns in

collaboration with federal agency partners. ONO also assisted with and supported the SBA in its other pandemic relief efforts by continuing to provide small businesses with a way to communicate openly and honestly with federal agencies.

Throughout FY2020, ONO's Regional Regulatory Fairness Board members remained apprised of regulatory concerns unique to their specific industry and region. They listened to the concerns of small business owners to identify issues and trends, before sharing them with the National Ombudsman, who raised them to federal regulators. The board members also monitored issues that spanned regional boundaries and impacted small businesses across multiple states and industries.

Board members joined with the National Ombudsman to facilitate dialogue with small businesses and trade association leaders at regional roundtables. ONO developed an in-house tracking system to record board member activity, including required forms, membership terms, and new applications. The board membership rate increased to 48 percent (from 40 percent in FY2019), and ONO is working to build a pipeline of candidates to continue filling vacancies.



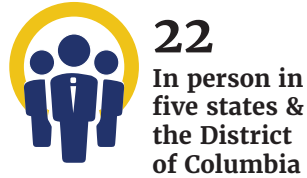
Now and possibly more than ever, the SBA's Office of the National Ombudsman is proving to be a valuable resource for our country's small businesses interests as they navigate the ever-changing regulatory environment brought on by the global COVID-19 pandemic.

**Mathew Patrick Thomas,  
Regulatory Fairness Board Member – SBA Region X**

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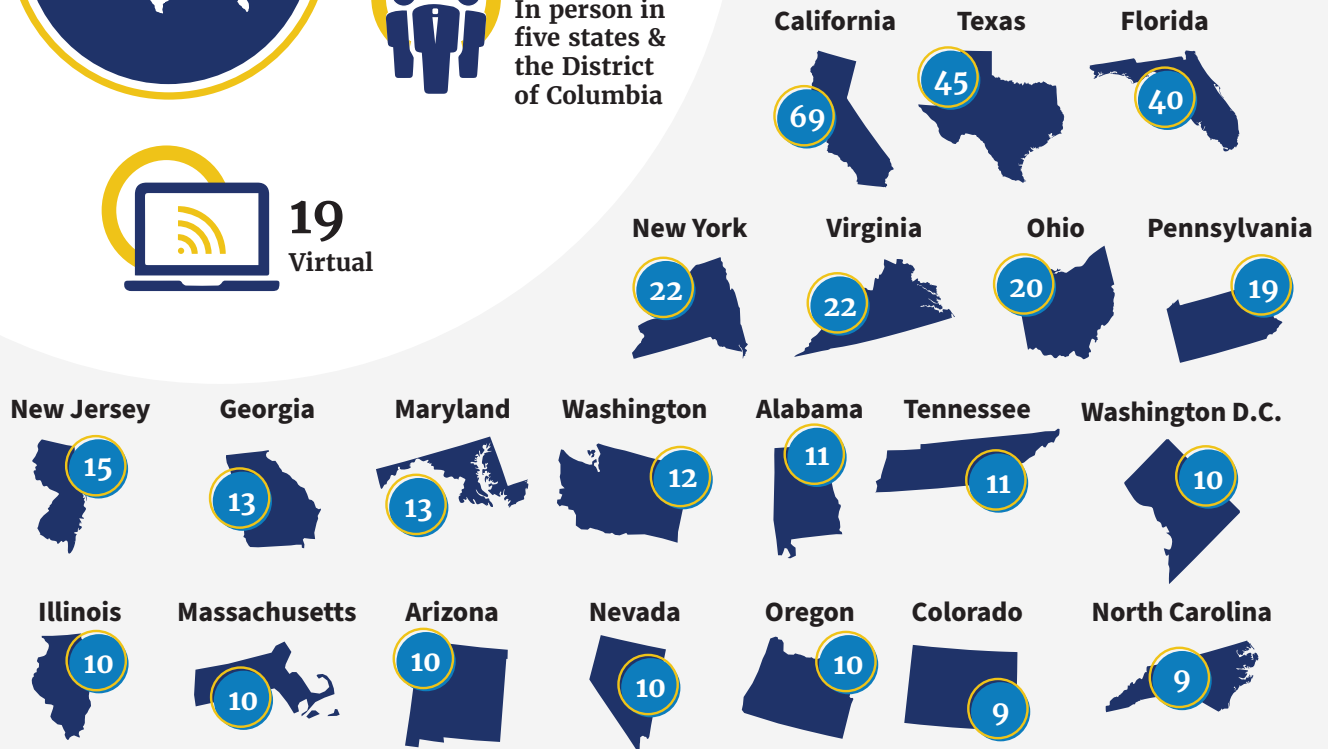
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# OVERVIEW OF FY2020 ACCOMPLISHMENTS



## Top Comment Submissions

### — Top States —



### — Top Agencies —



# CH 01

## Promoting Small Business Relief, Recovery, and Revitalization



# PROMOTING SMALL BUSINESS RELIEF, RECOVERY, AND REVITALIZATION

The U.S. Small Business Administration (SBA) Office of the National Ombudsman (ONO) was created in 1996 to strengthen our national economy by supporting small businesses facing regulatory unfairness. Working alongside interagency partners, ONO has acted impartially on behalf of small businesses for more than two decades, resolving unfair regulatory enforcement.

In FY2020, ONO not only intervened in unfair regulatory actions, but it also increased collaboration with SBA to aid small businesses struggling in the face of global economic disaster resulting from the COVID-19 pandemic. ONO's primary focus throughout the year was on supporting pandemic and regulatory relief actions for small businesses and later, contributing to SBA's economic recovery and revitalization efforts. Through the Coronavirus Aid, Relief, and Economic Security Act (CARES Act), the Economic Aid Act, and the American Rescue Plan Act of 2021, the SBA continues to support and aid small businesses struggling during the pandemic.

ONO's regulatory relief process begins with the high-level fairness review of comments between small business owners and federal agencies tasked with enforcement. Small businesses last year were weighed down with unfair regulatory actions in addition to economic downturns that forced many to close for months at a time as health guidelines and enforcement continually changed. ONO's active and attentive management of small business concerns was especially critical to bolstering revitalization efforts and entrepreneurial successes in FY2020. ONO works directly with agencies and small businesses to uncover and resolve excessive enforcement actions, including repetitive audits and investigations, unreasonable fines, penalties, threats, retaliation, or other unfair actions.

## HOW ONO ASSISTS SMALL BUSINESSES

ONO encourages fair and mutually beneficial interactions between small businesses and federal agencies. ONO maintains a streamlined, effective, and user-friendly process for small businesses to resolve any issues with federal regulations. Small business owners have the option of filing complaints and comments with ONO electronically or by mail.

### ELECTRONIC FORM (recommended approach)

Submit an online request for assistance at [www.sba.gov/ombudsman/comment](http://www.sba.gov/ombudsman/comment).

### PAPER FORM

Download a printable Federal Agency Comment Form (SBA Form 1993) from the Office of the National Ombudsman website at [sba.gov/ombudsman/comment](http://sba.gov/ombudsman/comment). Submit a signed comment form and supporting documentation via email (preferred), mail, or fax.

**Email:** [ombudsman@sba.gov](mailto:ombudsman@sba.gov)

**Fax:** (202) 481-5719

**Mail:** Office of the National Ombudsman, U.S. Small Business Administration,  
409 3rd Street, S.W., Mail Code 2120  
Washington, D.C., 20416



## ONO's Comment/Complaint Filing Process:

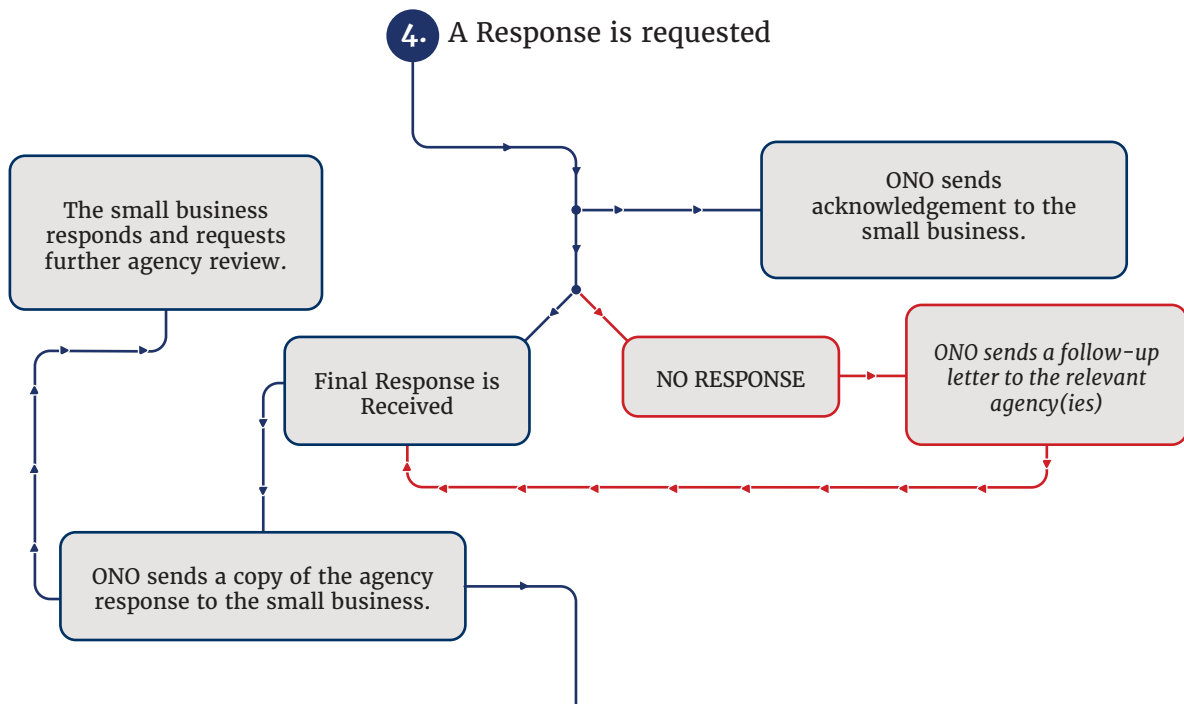
ONO's process to resolve regulatory enforcement and compliance issues between small businesses and federal agencies is transparent and streamlined. The flowchart below shows ONO's process after a small business files a comment or complaint.



**1.** Comment is submitted to ONO via email, fax, website, regular mail, hearing or via a Regulatory Fairness Board Member

**2.** The comment is recorded and reviewed by ONO and a case file is created

**3.** ONO sends the comment to relevant agency(ies) for a high-level review and requests a response



**5.** Case information is recorded and compiled to be included in the Annual Report to Congress

# ONO'S FAIRNESS REVIEW PROCESS:

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After receiving a federal Agency Comment Form from a small business, ONO:

1. Reviews the Federal Agency Comment Form (SBA Form 1993), which authorizes the Ombudsman to proceed, and any supporting documentation for completeness, including signatures.
2. Determines how ONO can best assist, then advises the small business of any expected next steps and parameters of the Small Business Regulatory Enforcement Fairness Act (SBREFA) review.
3. Contacts the federal agency involved to initiate the review process.
4. Follows up with both the agency and small business to provide a timely and thorough answer on the issue(s) reported, as appropriate.
5. Communicates to the small business owner the actions that ONO has taken to assist and provides a copy of the agency's response to the small business owner.

ONO and its Regulatory Fairness Board Members have assisted thousands of small businesses, but it cannot:

- Provide legal advice or address anything in active litigation
- Guarantee a positive outcome
- Delay or overrule regulatory enforcement actions taken by federal agencies
- Make binding decisions for federal agencies
- Handle internal workplace issues like harassment claims
- Investigate issues

## Summary of the Office of the National Ombudsman Statute 15 U.S. Code § 657–Oversight of Regulatory Enforcement:

### After its creation in 1996, ONO:

- Works with agencies to ensure small businesses that receive enforcement-related communications or contacts by federal agencies can provide comments on that enforcement activity
- Maintains small business confidentiality
- Reports findings annually to Congress
- Allows agencies to respond to comments from small businesses

### Regulatory Fairness Boards need to:

- Meet annually to advise ONO
- Report any confirmed excessive enforcement issues to ONO
- Provide ONO with comments on the annual report to Congress

### **Boards consist of:**

- Five small business-owner members
- Qualified members serving three-year terms
- One member serving as chair for a one-year term

## **Office of the National Ombudsman Staff Directory**

**Main Number (202) 205-2417 Hotline: 888-REG-FAIR**

**Mina A. Wales, Acting National Ombudsman, [mina.wales@sba.gov](mailto:mina.wales@sba.gov)**

**Cynthia Pope, Case Manager, [cynthia.pope@sba.gov](mailto:cynthia.pope@sba.gov)**

**Elahe Zahirieh, Case Manager, [elahe.zahirieh@sba.gov](mailto:elahe.zahirieh@sba.gov)**

**John Kelly, External Relations Manager, [john.kelly@sba.gov](mailto:john.kelly@sba.gov)**

**Joshua Tovar, Administrative Specialist, [joshua.tovar@sba.gov](mailto:joshua.tovar@sba.gov)**

### **Visit ONO Online**

**[https://www.sba.gov/about-sba/oversight-advocacy/  
office-national-ombudsman](https://www.sba.gov/about-sba/oversight-advocacy/office-national-ombudsman)**



# CH 02

## ONO's Small Business Recovery Partners: Regional Regulatory Fairness Boards



# ONO'S SMALL BUSINESS RECOVERY PARTNERS: REGIONAL REGULATORY FAIRNESS BOARDS

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Throughout FY2020, the Office of the National Ombudsman's (ONO) Regional Regulatory Fairness Boards engaged and supported small businesses around the country. Concerns about regulatory enforcement actions and other regulatory burdens were voiced by the boards throughout the federal marketplace. Boards are composed of private-sector representatives in each of the ten SBA regions. Through sustained outreach in small business communities, the boards assist ONO in effective small business engagement to support the SBA's goal of promoting small business recovery during the COVID-19 pandemic. Boards adapt to a collaborative process with each small business they interact with, identifying underlying issues and systemic problems with regulatory enforcement. ONO reviews the issues and comments from small businesses and raises flags to federal regulators.

Board members are located throughout the U.S. to increase the SBA's interactive footprint with the small businesses they serve. In FY2020, the boards collectively conducted outreach events across the country and liaised with small businesses in a mixture of in-person and virtual events.

Board members heard directly from small business owners across the country in a range of industries. Boards collected comments, concerns, and regulatory insights from the small businesses. ONO analyzed the information to identify any nationwide trends.

Regionally, ONO and its board members work with the Office of Advocacy's regional advocates often. Regional advocates locate participants for Small Business Regulatory Enforcement Fairness Act (SBREFA) panels that require small business representatives. ONO, the boards and regional advocates support each other in outreach efforts; engaging with small businesses and alerting them about regulatory proposals that may affect them.

ONO continued to build a pipeline of qualified candidates in FY2020 to fill board vacancies. ONO addressed the logistics associated with filling these vacancies by developing an in-house tracking system to record all board activity, including new applications, documentation, and membership terms of current board members. Board membership increased in FY2020 to 48 percent; an eight percent increase from the previous year.

The Regional Regulatory Fairness Boards are a critical component of ONO's daily activities and overall success. Boards provide opportunities to connect directly with small businesses across the country that deserve to be heard. In FY2020, maintaining regular and consistent contact with small businesses was particularly critical for ONO and the boards.

# A HIGH LEVEL OVERVIEW OF THE BOARDS



— Across a wide range of industries —

A grid of 12 industry icons and labels, arranged in three rows and four columns. Each icon is blue and represents a different industry. Below each icon is its corresponding industry name in a bold, blue font.

- Aircraft Support Services**: Icon of an airplane.
- Broadcasting**: Icon of a megaphone.
- Construction Management**: Icon of a crane.
- Electronics Manufacturing**: Icon of three interlocking gears.
- Health Care**: Icon of a stethoscope.
- Insurance Services**: Icon of a shield with a checkmark.
- Information Technology**: Icon of a laptop.
- Legal Services**: Icon of a scale of justice.
- Organizational Management**: Icon of a briefcase.
- Real Estate Development**: Icon of a house with an upward-pointing arrow.
- Venture Development**: Icon of three interlocking puzzle pieces.
- UX Research & Design**: Icon of a tablet or screen.

# CH 03

## Virtual and In-Person Outreach Targeting Relief



# VIRTUAL AND IN-PERSON OUTREACH TARGETING RELIEF

The Office of the National Ombudsman (ONO) coordinated and hosted both in-person and virtual outreach events in FY2020.

ONO worked with federal agencies and small businesses to provide a confidential and impartial channel for small businesses to comment on enforcement activities, audits, on-site inspections, compliance assistance, or other types of issues. ONO raised awareness of its office through direct outreach to small business owners and entrepreneurs. SBA established relations with trade association leaders, resource partners, and other federal agencies. ONO completed 41 events in FY2020, just shy of its target 50 outreach event goal as it refocused outreach events to be more direct and concentrated in addition to the impacts of the COVID-19 pandemic on in-person events. ONO identified ways to reach more stakeholders as it adapted to a changing environment during and after the pandemic.

## Total Outreach FY2020 Events

ONO hosted 41 events total in FY2020, 22 events were in-person (pre-pandemic) and 19 were virtual during the COVID-19 pandemic. The 22 in-person events took place in five states and the District of Columbia. ONO identified and introduced itself to 85 trade associations representing small businesses. ONO used its database, referrals from small businesses, and website searches to find the trade associations.

## HIGHLIGHTED FY2020 OUTREACH EVENTS



**WASHINGTON, D.C.** – Led outreach efforts as an exhibitor at the Library of Congress Cybersecurity Awareness Expo. Approximately 100 small and large businesses and government employees attended. Twenty additional businesses and government agencies also participated as exhibitors.



**WASHINGTON, D.C.** – Participated in the Small Business and Entrepreneurs Challenge Presentation and Discussion hosted by the 1 Million Cups. Attendees discussed challenges faced by small business owners and entrepreneurs in starting or growing businesses. ONO informed them about SBA resources and discussed ways the agency can assist with federal regulatory issues.



**FORT DETRICK, MD** – Led outreach efforts as an exhibitor at the Department of Defense IT & Cyber Day. Approximately 60 small and large businesses and government employees attended. Twenty additional businesses and government agencies also participated as exhibitors.





**ARLINGTON, VA** – Led outreach efforts as an exhibitor at the IT & Cyber Expo hosted by the Transportation Security Administration, Drug Enforcement Administration, and U.S. Marshals Service. About 40 small and large businesses and government employees attended. Thirty additional businesses and government agencies also participated as exhibitors.



**COLLEGE PARK, MD** – Led outreach efforts as an exhibitor at the Cyber USA InfraGard Cybersecurity Conference hosted by the Department of Homeland Security. Approximately 100 small and large businesses and government employees attended. Twenty additional businesses and government agencies also participated as exhibitors.



**LAS VEGAS, NV** – Participated in the general session of the American Pyrotechnic Associations Annual Conference where it explained its resources for small businesses and how to engage with SBA when they face regulatory burdens and challenges.



**VIRTUAL** – Hosted a teleconference with leadership of the Automotive Service Association (ASA). ONO provided a complete overview of the value provided to their members. ASA leadership was excited to learn about the benefits ONO can provide and will encourage their members to utilize ONO resources. ONO will also be coordinating a future webinar with ASA's members.



**VIRTUAL** – Participated in a roundtable webinar with Richmond Works and small business owners to hear issues small businesses are facing during the COVID-19 pandemic.



**VIRTUAL** – Expanded ONO's reach at the virtual outreach event, HACK 2020 Helpful Applied Cyber Knowledge that was hosted by the Nuclear Regulatory Commission (NRC). ONO led outreach efforts as an exhibitor at the event with a chat room with around 30 small and large businesses as exhibitors. Approximately 350 small and large businesses and government employees logged into the virtual event on June 2, 2020.



**VIRTUAL** – Presented at Maryland-National Capital Homecare Association's (MNCHA) annual conference, which was held virtually over two days. ONO presented benefits and value of ONO to the members and leadership of MNCHA. After the presentation, ONO hosted a Q&A session.

## FY2020 SUCCESS STORIES

### COVID-19 Relief Eligibility

#### U.S. Small Business Administration

##### Office of Disaster Assistance

##### Georgia

**Issue:** The business owner requested reconsideration after the business was deemed ineligible for an Economic Injury Disaster Assistance Loan because it was not included in the U.S. Small Business Administration's Franchise Directory.

**Outcome:** The business owner's EIDL application indicated the business was a franchise. However, the business was not included in the SBA Franchise Directory and, therefore, deemed ineligible. SBA added the business to the SBA Franchise Directory and the business owner's EIDL application was reactivated for evaluation. The business owner's EIDL application was approved and the EIDL funds were deposited into the bank account provided.

## *Economic Injury Disaster Loan: Duplicate Applications*

### **U.S. Small Business Administration**

#### **Office of Disaster Assistance**

##### **Oregon**

**Issue:** The business owner requested assistance in reconciling an Economic Injury Disaster Loan (EIDL) duplicate status.

**Outcome:** The business owner's file was incorrectly categorized as a duplicate due to a loan application submitted by a different applicant, who mistakenly used the same Employer Identification Number. The agency reconciled the issue and the business owner's application processed.

### **U.S. Small Business Administration**

#### **Office of Disaster Assistance**

##### **Virginia**

**Issue:** The business owner requested reconsideration for an Economic Injury Disaster Loan (EIDL) application duplicate designation.

**Outcome:** The second application was deemed a duplicate because it shared the same federal tax identification number as the first application. However, after further review, it was determined that each application represented a separate business entity. The second application was reactivated for evaluation.

### **U.S. Small Business Administration**

#### **Office of Disaster Assistance**

##### **California**

**Issue:** The business owner requested reconciliation of an Economic Injury Disaster Loan (EIDL) application duplicate designation.

**Outcome:** The business owner submitted a second application which was deemed a duplicate, as it shared the same unique identifier information with another EIDL application. However, after further comparison of the two EIDL applications and review of supporting documentation, it was determined that the second EIDL application represented a separate business entity. Therefore, the second EIDL application was reactivated for evaluation, approved, and disbursed.

## *Contract Issues*

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### **U.S. Department of Defense**

#### **U.S. Department of the Army**

##### **Idaho**

**Issue:** The commenter expressed concerns regarding non-payment of invoices by the U.S. Department of the Army. The contract had been performed as agreed, inspected, and reports submitted. The Army had made partial payments and rejected the invoices for the remainder of the payments several times with unclear comments and requests for additional documents that had already been submitted.

**Outcome:** After a high-level review, the Army determined that the invoices submitted would be approved for payment. The agency also determined that the company may submit a final invoice, as well as a claim for any additional cost incurred due to the delay in payment of the invoices in accordance with the Disputes Clause FAR 52.233-1.

### **U.S. Department of Defense**

#### **Defense Logistics Agency (DLA)**

##### **Florida**

**Issue:** The small business owner expressed concerns regarding non-payment of 35 orders in the amount of \$18,630.90 on a DLA contract. The business owner contacted the agency several times but received no response.

**Outcome:** DLA indicated that the obstacles in the process had been cleared and payments for many of the orders in question have been made. The DLA is working directly with the company to resolve any outstanding issues.

## *Decision Reversed*

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### **U.S. Department of Homeland Security**

#### **Citizenship and Immigration Services (USCIS)**

##### **Florida**

**Issue:** The business owner stated that the deadline for the company's response to the agency's Request for Evidence (RFE) was extended for 60 calendar days. The company filed an RFE on the extended due date, as evidenced by a FedEx Proof of Delivery. The business owner argued that USCIS erroneously denied the company's Form I-140 based on abandonment.

**Outcome:** After requesting and receiving the business owner's Proof of Delivery, USCIS approved the business owner's Form I-140.

## Claims Denied / Claim Processing

### U.S. Department of Health and Human Services

#### Centers for Medicare & Medicaid Services (CMS)

##### Multiple States

**Issue:** Six medical providers based in CA, OH, UT, WA, and PA expressed concerns regarding denial, underpayment, and delay in the processing of Medicare claims by Medicare Advantage Organizations due to the following reasons:

- Lack of authorization
- Billing errors
- Lack of identity verification
- Coding errors
- Untimely filing
- Use of out-of-network pharmacy

**Outcome:** Upon completion of a high-level review of the records and receipt of the requested information by the Medicare Advantage Organizations, the Medicare claims were reprocessed and approved for payment.

## Settlements

### Environmental Protection Agency (EPA)

#### Pennsylvania

**Issue:** The business owner expressed concern for EPA's pending enforcement action regarding an inspection and initial demand of a penalty in the amount of \$515,869 for an alleged violation of the Clean Air Act. The business owner also expressed concerns regarding the EPA's notification of the final offer and potential proceeding to litigation if parties are unable to reach an agreement.

**Outcome:** The agency reached a settlement with the company.

### U.S. Department of Labor

#### Occupational Safety and Health Administration (OSHA)

##### New Jersey

**Issue:** The business owner expressed concerns regarding the OSHA's inspection and subsequent issuance of "Citation and Notification of Penalty" and "Invoice/Debt Collection Notice" for late filing of a report with OSHA regarding a work-related incident that resulted in the hospitalization of one of the company's employees. The business owner stated that their vendor had failed to inform the company of the reporting requirements. Once notified, however, the business owner filed the report that the injury was considered a "serious" incident and therefore needed to be reported to OSHA within 24 hours. The company was initially assessed a penalty of \$5,636. During an informal conference, an additional 30% reduction of the penalty was offered, from \$5,636 to \$3,945. The commenter did not sign the informal settlement agreement, believing

that the penalty was still excessive for a small business that has been in operation since 1981 without a single incident. The commenter requested that OSHA eliminate the penalty or significantly reduce it.

**Outcome:** After reviewing the commenter’s additional information and evaluation of the case, OSHA proposed a Stipulated Settlement offer of \$750 (a reduction of the penalty from \$3,945). The company accepted this offer.

## U.S. Department of Labor

### Occupational Safety and Health Administration (OSHA)

#### Ohio

**Issue:** The business owner expressed concerns regarding the U.S. Department of Labor (DOL) Occupational Safety & Health Administration’s (OSHA) inspection and subsequent issuance of citations and notification of penalties as well as an Invoice/Debt Collection Notice. The business owner stated that these citations were issued due to an incident that had occurred in December 2019. The business owner requested an informal meeting to discuss the situation and stated, “this request is being made in good faith and not to avoid my responsibilities.”

**Outcome:** OSHA granted the commenter’s request for an informal meeting to discuss the concerns. As a result of the informal conference, OSHA further reduced the overall penalty imposed against the small business by over 70% and agreed to a two-year payment plan to help the business owner better manage the penalty payments.

## Other Success Stories

Federal Agency	State	Industry	Issue(s)	Outcome
Small Business Administration (SBA) Office of Disaster Assistance (9 cases)	North Carolina New Jersey Florida California New York Illinois Pennsylvania	Various	<ul style="list-style-type: none"> <li>• Undisbursed funds</li> <li>• Withdrawn Application</li> <li>• Payment Issue</li> <li>• Demand letter</li> <li>• Duplicate requests for documentation</li> <li>• Poor communication</li> <li>• Requests for status</li> <li>• Eligibility</li> </ul>	SBA took action to address and resolve the applicant/borrower’s concerns

Federal Agency	State	Industry	Issue(s)	Outcome
Small Business Administration (SBA) Office of Capital Access	Florida	Beverage Retailer	Funds undisbursed on an approved SBA loan	A portion of the funds were disbursed. Borrowers were encouraged to work with the lender for disbursement of remaining funds.
Small Business Administration (SBA) Office of Capital Access	Florida	Promotional Products Supplier	Collateral not released on a paid in full loan	Collateral released after U.S. Department of Justice confirmed a zero balance on the loan
Small Business Administration (SBA) Office of Capital Access	Arizona	Electrical Engineer	One of three SBA lenders not cooperating with deferment request	Third lender requested documentation on the other lenders' cooperation and deferments to determine the effects on the borrower's cash flow
Small Business Administration (SBA) Office of Capital Access	Missouri	Financial Management	Returned Paycheck Protection Program (PPP) loan and requested that identity not be publicized	Loan cancellation confirmed and name removed from PPP recipient's list
Small Business Administration (SBA) Office of Capital Access	Ohio	Financial Institution	Inquiry about status of reimbursement for a guaranteed loan	Lender's guaranteed loan purchase approved
Customs and Border Protection (CBP)	Florida	Party Supplies	Request to pay Pre-penalty notice and demand for duties in monthly installments	Agency worked with business owner to create a promissory note

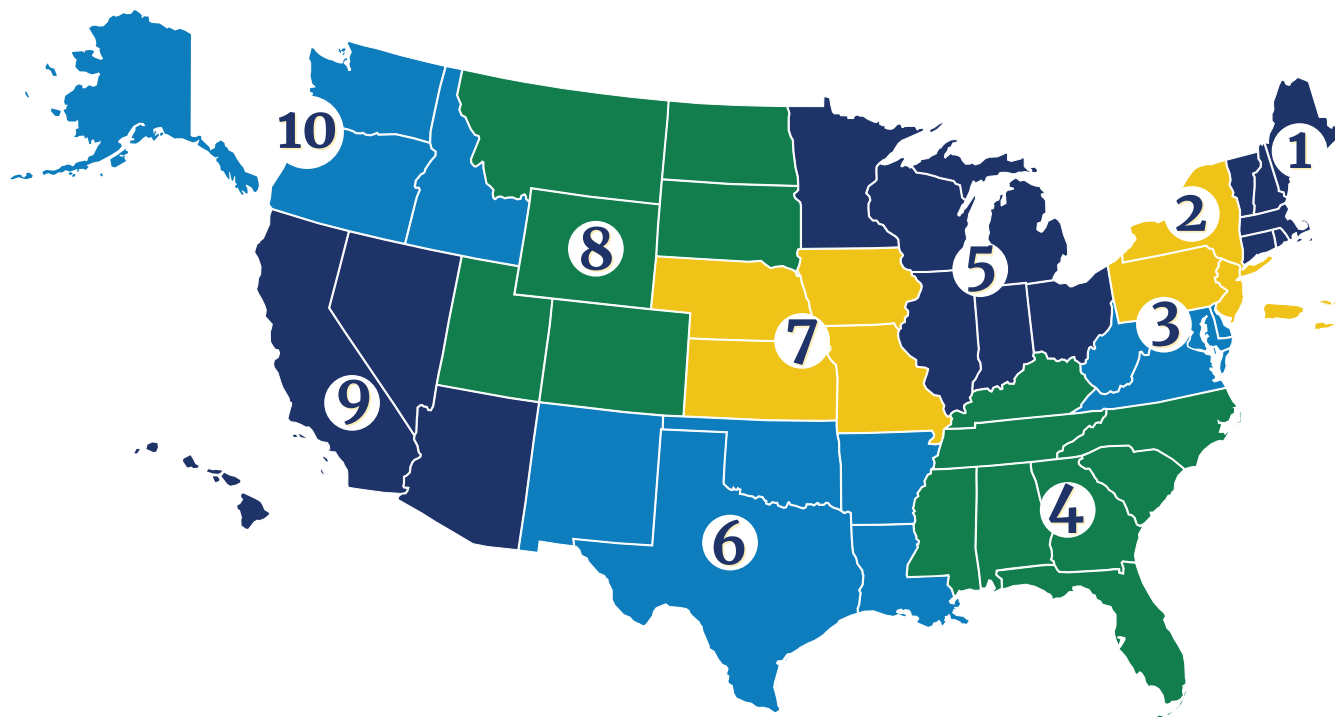
Federal Agency	State	Industry	Issue(s)	Outcome
Small Business Administration (SBA) Office of Disaster Assistance	Texas	Homeowner	Request for disaster loan mortgage subordination	SBA agreed to subordinate its mortgage
Small Business Administration (SBA) Office of Capital Access	Nebraska	Painting Contractor	Paycheck Protection Program (PPP) application blocked by a prior line of credit that was expired	PPP loan approved and funded
Small Business Administration (SBA) Office of Disaster Assistance	Texas	Information Technology	Unable to get status on request to modify second part of disaster loan	Request approved to reinstate canceled balance of loan
U.S. Department of the Treasury Internal Revenue Service (IRS)	Oregon	Agriculture Contractor	The Oregon Bureau of Labor and Industries (BOLI) refused to renew the Business owner's license because a compliance form was not received from the IRS	IRS released the compliance form to the BOLI and license was renewed



Being a small business owner, wearing many hats, handling so many issues, sometimes the burden can be too much and it's good to have ONO in your corner to assist with regulatory concerns.

**David Rambhajan,**  
Regulatory Fairness Board Member – SBA Region V

# REGIONAL SNAPSHOT



## Region I

*(Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont)*

19 Cases

### Board Members Region I

**Mr. Richard V. Snow**

Owner  
Maine Indoor Karting  
Scarborough, ME

**Ms. Wendy Traub**

Corp Secretary/Accountant  
Hemlock Directional Boring, Inc.  
Torrington, CT

**Dr. Deborah A. Osgood**

Founder/CEO  
Osgood and Associates, Inc.  
Exeter, NH

**Mr. Victor Drouin**

President  
Green Mountain  
Communications Inc.  
Pembroke, NH





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## Region II

*(New Jersey, New York, Puerto Rico, and the U.S. Virgin Islands)*

**43 Cases**

### Board Members Region II

**Mr. Kenneth M. Fransiak**

Chairman & CEO  
Calamar Enterprises, Inc.  
Wheatfield, NY

**Mr. Nure Miguel Bezares**

CEO/Owner  
Toll International LLC  
New York City, NY

**Ms. Lisa Coppola**

Managing Partner  
The Coppola Firm  
Buffalo, NY



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## Region III

*(Delaware, Maryland, Pennsylvania, Virginia, West Virginia, and the District of Columbia)*

**66 Cases**

### Board Members Region III

**Ms. Marilyn D. Landis**

President and Chief Executive  
Officer  
Basic Business Concepts, Inc.  
Pittsburgh, PA

**Ms. Cindy Towers**

President and Chief Executive  
Officer  
JURISolutions  
Philadelphia, PA

**Mr. Andrew Langer**

President  
Langer Broadcasting, LLC  
Williamsburg, VA

**Ms. Lisa Renshaw**

President  
Penn Parking Inc.  
Hanover, MD



## Region IV

*(Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee)*

94 Cases

### Board Members Region IV

**Mr. Moisés Montañez**

President  
ALTA Home Remodeling CO  
Miami, FL

**Mr. Steven Williamson**

Owner & Managing Principal  
Best Solutions Consulting Group  
Coral Gables, FL

**Mr. Erick Valderrama**

President  
CDC Group & Associates  
Miami, FL

**Mr. Talmadge Scott**

Owner  
TDS & Associates, LLC  
Gallatin, TN



## Region V

*(Illinois, Indiana, Michigan, Minnesota, Ohio, and Wisconsin)*

54 Cases

### Board Members Region V

**Mr. Keith Ashmus**

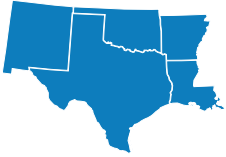
Partner  
Frantz Ward LLP  
Cleveland, OH

**Mr. David M. Rambhajan**

President  
Industria Construction Services  
Chicago, IL

**Ms. Araceli Corona**

President  
Brilliance Insurance Group  
Whiting, IN



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## Region VI

*(Arkansas, Louisiana, New Mexico, Oklahoma, and Texas)*

59 Cases

### Board Members Region VI

**Dr. Ralph “Trey” Baucum III**

Doctor  
Advanced Cardiovascular  
Specialists  
Shreveport, LA

**Mr. Brook Schaaf**

CEO/Owner  
FMTC.co  
Austin, TX

**Mr. Mark Wingate**

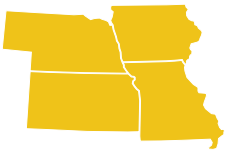
Chairman  
Maxivolt Corporation  
Amarillo, TX

**Mr. Dennis Bradford**

Owner  
Island Investment Realty  
Anna Maria, FL

**Mr. Edwards Albert**

Managing Director/Owner  
Corporate Environmental Risk  
Management  
Tucker, GA



## Region VII

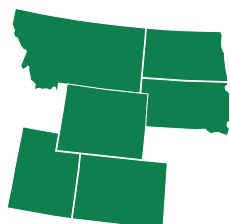
*(Iowa, Kansas, Missouri, and Nebraska)*

13 Cases

### Board Members Region VII

**Ms. Mindy Rocha**

Owner  
CJ Industries LLC  
Kansas City, KS



## Region VIII

*(Colorado, Montana, North Dakota, South Dakota, Utah, and Wyoming)*

18 Cases

### Board Members Region VIII

**Mr. Christopher Phelen**

Founding Partner and Owner  
Art & Science Collaborative, LLC  
Denver, CO

**Mr. Robert McCreary**

Vice Chairman  
Rampart Aviation  
Colorado Springs, CO



## Region IX

*(Arizona, California, Hawaii, Nevada, and the territories of Guam and American Samoa)*

92 Cases

### Board Members Region IX

**Ms. Kimberly Daniels**

President  
Mercantile Logistics &  
International Trade, Inc  
Henderson, NV

**Mr. Jeffrey Koenig**

Owner  
Open 4 Business, LLC  
Tucson, AZ

**Ms. Amy Nguyen**

CEO/Owner  
Aviva Pharmacy  
Long Beach, CA

**Ms. Kassel Kristine**

Owner  
Benefits By Design  
Tempe, AZ

**Mr. Jerome Toliver**

Chief Executive Officer  
RMJ Technologies  
San Marcos, CA

**Mr. Baker Reginald**

Owner  
Reg Baker & Co.  
Honolulu, HI



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## Region X

*(Alaska, Idaho, Oregon, and Washington)*

26 Cases

### Board Members Region X

**Ms. Christine V. Williams**

Managing Partner  
Outlook Law, LLC  
Anchorage, AK

**Mr. Mathew Patrick Thomas**

Vice President  
Pacific Northwest Equipment  
Inc.  
Seattle, WA

**Ms. Suzanne Schmidt**

President/CEO  
Associated Builders & Contractors  
Spokane, WA

**Ms. Karen Cole**

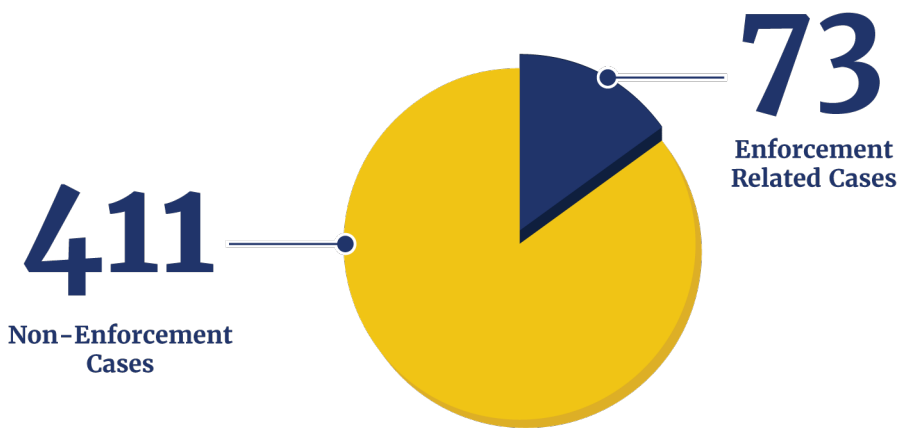
CEO/Co-Founder  
Blink Interactive Inc.  
Seattle, WA

# OMBUDSMAN ACTIVITIES

## TOTAL NUMBER OF COMMENTS:

(Number of cases in FY2019: 292)

# 484



### COMMENTS RECEIVED VIA:



WEB

# 430



FAX

# 4



EMAIL

# 46



MAIL

# 2



TESTIFIED

# 2

### WHO FILED THE COMMENTS?

Small Business

# 429

Association

# 2

Non-profit

# 20

Other

# 26

Small Government

# 7

# CH

## Agency Ratings

# 04



# AGENCY RATINGS

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As part of ONO's ongoing goal to improve the regulatory oversight of the Federal Government, the Office of the National Ombudsman (ONO) rates federal agencies each fiscal year on their compliance with the Small Business Regulatory Enforcement Fairness Act (SBREFA).

By fulfilling their inherent obligations and responsibilities under the SBREFA, federal agencies ensure that they are providing consistent and equal support to small businesses. This rating information is vital to further ONO and the Federal Government's work in alleviating undue regulatory burdens on small businesses nationwide.

The annual SBREFA scorecard assigns ratings in five different categories and overall grades for each federal agency. This scorecard allows Congress, small business owners, and the public to easily reference agencies' actions and improvements from year to year. In addition, the scorecard enables interested parties to evaluate what efforts are being made to ease regulatory burdens on small businesses. Ratings are based on the following criteria:

- How timely was the agency in responding to comments from small businesses?
- How thorough were the agency's responses to comments, and did the agency take appropriate action?
- Did the agency have a written non-retaliation policy that small businesses and the agency's employees can easily access?
- How much guidance and assistance did the agency provide to help small businesses comply with its regulations?
- How well did the agency follow SBREFA's notice requirements?

Utilizing multiple sources and a fair and transparent grading process, ONO evaluates each agency based on its responsiveness to small business concerns and the quality of those responses. ONO also aggregates information reported in response to the annual questionnaires asking about SBREFA-related practices, which are sent to agencies to arrive at a rating determination. Incorporating diverse sources into the evaluation process allows ONO to provide accurate and objective grading of each agency's SBREFA compliance. By issuing these Agency Ratings, ONO seeks to create an environment that encourages small business revitalization and economic rebuilding.

This report lists the FY2020 Agency Ratings on pages 51–54. The rest of this chapter will describe the ratings criteria and categories in further detail.



# AGENCY QUESTIONNAIRE HIGHLIGHTS

The following agency questionnaire was sent to ONO's federal agency partners. In addition to the grading criteria, ONO considered information such as responsiveness to small business concerns when determining each agency's FY2020 scorecard ratings. The scorecard is continuously updated and streamlined to remove unnecessary questions and eliminate redundancy.

## 1. Non-retaliation Policies

Does the agency have a published written policy regarding non-retaliation against small businesses that is widely available to all agency employees and to small entities?

YES \_\_\_\_\_ NO \_\_\_\_\_

*If yes, please provide applicable web link(s) or an electronic copy of the policy.*

## 2. Compliance Assistance

A. Does the agency provide regulatory compliance assistance for small businesses in the form of written compliance guidance, training and/or counseling?

YES \_\_\_\_\_ NO \_\_\_\_\_

*If yes, please describe the compliance assistance available to small businesses and how it is delivered (e.g., on the agency's website or otherwise). Please provide applicable web link(s) or electronic copies of the compliance assistance. Also, please state the name and/or contact information of the designated agency compliance contact(s).*

B. Did the agency publish any rule(s) in FY2020 and therefore was required to publish, post, and distribute small entity compliance guides in FY2020?\* (If NO, please skip to Question 3).

YES \_\_\_\_\_ NO \_\_\_\_\_

- C. When a final rule has been issued, has the agency published one or more small entity compliance guides as mandated by Section 212 of SBREFA?\*

*For each rule issued in FY2020, please specify:*

Name of Rule: \_\_\_\_\_

*Published one or more small entity compliance guides associated with that rule?*

YES \_\_\_\_\_ NO \_\_\_\_\_

*Guide was published by the required timelines mandated by Section 212 of SBREFA?*

YES \_\_\_\_\_ NO \_\_\_\_\_

*Please attach additional sheets if there was more than one rule published.*

- D. Has/Will the agency submit(ted) a 2020 Annual Report on Small Entity Compliance Guide to the U.S. Senate Committee on Small Business and Entrepreneurship and the House Small Business Committee as required by Section 212 of SBREFA?\*

YES \_\_\_\_\_ NO \_\_\_\_\_

### 3. SBREFA Notification

- A. Does the agency provide public notice regarding small entities' rights under SBREFA, including the right to file a comment with the SBA National Ombudsman?

YES \_\_\_\_\_ NO \_\_\_\_\_

*If yes, please provide applicable web link(s) or an electronic copy of the notice and indicate how the notice is disseminated.*

- B. If the agency issues a citation, notice of regulatory violation, charge of violation, or the like to a small business, is written notice of small entities' SBREFA rights included in the issuance?

YES \_\_\_\_\_ NO \_\_\_\_\_

*If yes, please include electronic samples of the written notice(s) provided.*

*\*Note: Please see pages 33–50 for the results of this question.*

# GRADING CATEGORIES AND RATING CRITERIA

## Non-Retaliation Policies

### 1. Non-Retaliation Policies

“Non-retaliation” policies refer to policies that are designed to prevent acts that punish small business concerns for complaining or commenting about an agency action. As a result of SBREFA, small businesses are allowed to comment on or complain about an agency’s action without fear of retaliation. ONO will assign an “A” rating if:

- The agency has a published non-retaliation policy that is readily available to agency employees and small entities, online or otherwise.
- The agency provided the web link(s) for its policy.

### EXAMPLES OF NON-RETALIATION POLICIES

Examples of effective non-retaliation policies can be found below and on the SBA ONO website.

#### U.S. Centers for Medicare & Medicaid Services

[www.cms.gov/CMSSmallBusAdminOmbuds](http://www.cms.gov/CMSSmallBusAdminOmbuds)

#### U.S. Department of Transportation

<http://www.dot.gov/regulations/rights-small-entities-enforcement-fairness-and-policy-against-retaliation>

#### U.S. Federal Communications Commission

<https://docs.fcc.gov/public/attachments/DOC-343558A1.pdf>

### 2. Compliance Assistance

ONO considers the following factors in determining ratings for this category:

- The agency has published small business compliance guide(s) and assistance as described in Section 212 of SBREFA, if required.\*
- In compliance with SBREFA, the small business compliance guide(s) and assistance were published on the date of publication of the final rule(s) (or as soon as possible after that date) and not later than the date on which the requirements of that rule(s) became effective.\*
- The agency has provided a compliance assistance telephone number, a compliance assistance website and/or a compliance assistance point of contact available to small businesses’ concerns.

- The agency has provided, and is able to document, the availability of compliance assistance education.
- The agency submitted an *FY2020 Annual Report on Small Entity Compliance Guides* to the U.S. Senate Committee on Small Business and Entrepreneurship and the House Small Business Committee as required by Section 212 of SBREFA.\*

*Agency responses to the questions marked with an asterisk (\*) are included in this report.*

## EXAMPLES OF AGENCY COMPLIANCE ASSISTANCE INITIATIVES

### Customs and Border Protection

CBP has various publications regarding regulatory compliance assistance both in hard copy and electronically that is available to the public. The information can be found on [www.CBP.gov](http://www.CBP.gov) by using the following link: <https://www.cbp.gov/trade/rulings/informed-compliance-publications>

CBP has several ways it provides compliance assistance to small business entities. In addition to its Informed Compliance Publications (<https://www.cbp.gov/trade/rulings/informed-compliance-publications>), CBP offers other programs that can be found at (<https://www.cbp.gov/trade/programs-administration>) with programs including: Account Management, Focused Assessment Program (FA); Managing Trade Risk, Suspension and Debarment and Trade Compliance Measure (TCM) Program Overview.

*Centers of Excellence and Expertise:* Account Management through the Centers of Excellence and Expertise (Centers) was created as a method to increase compliance while reducing costs and inefficiencies for CBP and the trade. The Account Manager serves as a primary point of contact to the account for trade related issues and serves as a primary point of contact for the account within CBP, to establish and support smooth-working relationships among the many CBP disciplines that interact with the account. The Account Manager also provides guidance and assistance to the account and collaborates with other CBP disciplines to create and implement comprehensive strategies to manage and segment risk, solve problems, and increase efficiencies. As part of CBP's trade transformation efforts, each Account Manager is now a core member of 1 of the 10 Centers of Excellence and Expertise. Information on the Centers can be found on the CBP website at <https://www.cbp.gov/trade/centers-excellence-and-expertise-information>.

*CBP RegFair Program:* Through its CBP RegFair program, the Office of Trade Relations (OTR) provides outreach and educational opportunities by hosting Small Business Industry Trade Days, Small Business Roundtables and webinars in coordination with other partner Federal Government Agencies, small business entities and associations to educate small business owners on areas related to importing and exporting. OTR has coordinated events and discussions with the Small Business Administration (SBA), Center for International Trade, and the Centers for Small Business Development. The Office of Trade Relations can be contacted directly at (202) 344-1440, [tradeevents@dhs.gov](mailto:tradeevents@dhs.gov), [cbpsbrelations@cbp.dhs.gov](mailto:cbpsbrelations@cbp.dhs.gov) and [www.cbp.gov](http://www.cbp.gov).

### U.S. Department of State

The agency provides small businesses with regulatory compliance assistance in the form of written compliance guidance or similar written information. The assistance is disseminated via the Internet at <https://www.state.gov/assistance-and-support-resources/>

### U.S. Department of Energy

The Department holds an Annual Small Business Forum & Expo, socio-economic themed business opportunity sessions, training, and one-on-one counseling for the small business community to do business with the DOE. The Agency also provides links on its Small Business website to regulatory sites, such as the SBA, Procurement Technical Assistance Centers, the Minority Business Development Agency, and the General Services Administration.

<https://www.energy.gov/osdbu/small-business-toolbox/resources-and-training>

### 3. SBREFA Notification

Small businesses and entities must be informed of their ability and right to access ONO for assistance. ONO assigns a rating in this category based on whether:

- The agency has provided public notice of small entities' SBREFA rights, including contact information for ONO.
- When each citation or notice of regulatory violation is issued, the agency has provided written notice to small entities about their right to comment about the enforcement/compliance process to ONO.

The assigned rating is also affected by whether the agency displays or communicates its notice generally or if it only does so when issuing a citation, charge, or notice of regulatory violation.

In addition, ONO rates the **timeliness** and **quality** of agency responses based on a review of actual case filings.

### 4. Timeliness

- 30 days or fewer = A
- 31 to 60 days = B
- 61 to 90 days = C
- 91 to 120 days = D
- Over 120 days = F

ONO calculates response time from the day a specific comment is forwarded to the agency until a response is received by ONO. When circumstances warrant, ONO may accept requests for additional time to respond and/or interim responses. In such instances, the response time clock does not stop; however, ONO will take into consideration the specific circumstances in assessing the agency's timeliness. ONO measures timeliness based on business days rather than calendar days.

### 5. Quality of response

ONO provides a rating based on the detail and specificity of the agency's responses to small business comments. The rating assigned depends on whether:

- The agency addressed all applicable questions posed in ONO's letter and responded to the specific comment(s) made by the small entity and provided sufficiently detailed information demonstrating that they have investigated the facts of the specific comment and the actions taken by agency personnel involved in taking the enforcement or compliance action.
- The agency response came from a high-level representative (i.e., someone from the agency with SBREFA responsibilities or someone from the program office with oversight responsibilities related to the comment).

ONO assigns grades based upon feedback from the commenter, the quality of the information provided in the agency response and the extent to which the response has adequately addressed the commenter's concern(s). To receive an "A" rating, for instance, a high-level agency official has provided comprehensive responses that have directly addressed the concerns raised by the commenter.

## SUPPLEMENTAL INFORMATION

ONO welcomes the opportunity to assist its agency partners in developing and implementing policies that are fully SBREFA compliant. Agencies are encouraged to submit additional information that demonstrates how they have met SBREFA requirements. This may include specific examples that illustrate how the agency has promoted regulatory enforcement and compliance fairness for small entities, including individualized compliance assistance, the amount of fines abated, and/or other forms of regulatory relief provided to the small business based on its size and/or other considerations.



The SBA Regulatory Fairness Board provides an opportunity to truly be the eyes and ears for the SBA. When we listen to the voices and the needs of small business across the country, we can find business leaders who speak other languages, in addition to English. During our Board's Annual Meeting, I recommended to the SBA Ombudsman's office that the official documents for COVID relief, including PPP & EIDL, could be offered in additional languages used by small businesses. The SBA Ombudsman's office accepted my recommendation and updated official documents in over 12 languages on their website to further provide access to capital to the serve the diverse linguistic needs of the myriad of small businesses across the United States. It is an honor to serve on this board. I proudly promote it wherever I go.

**Araceli Corona,  
Regulatory Fairness Board Member – SBA Region V**

## Compliance Assistance Guides

The following agencies responded “yes” to Question 2B of the FY2020 Small Business Regulatory Enforcement Fairness Act Questionnaire. All agencies have indicated that, if required, they have published one or more small entity compliance guides and submitted the 2020 Annual Report on Small Entity Compliance Guides to the U.S. Senate Committee on Small Business and Entrepreneurship and the House Small Business Committee as required by Section 212 of SBREFA.

Agency	Name of Rule(s)
Department of Commerce / Patent and Trademark Office	<ul style="list-style-type: none"> <li>• <a href="https://www.uspto.gov/sites/default/files/documents/Small_Entity_Compliance_Guide_FY2020_Final_Rule.docx">https://www.uspto.gov/sites/default/files/documents/Small_Entity_Compliance_Guide_FY2020_Final_Rule.docx</a></li> </ul>
Department of Commerce / National Oceanic and Atmospheric Administration	<ul style="list-style-type: none"> <li>• Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Reef Fish Fishery of the Gulf of Mexico; Red Grouper Management Measures. Rule published at 84 FR 52036. (RIN 0648-BI95) <a href="https://www.fisheries.noaa.gov/bulletin/continuation-reductions-gulf-mexico-red-grouper-catch-levels">https://www.fisheries.noaa.gov/bulletin/continuation-reductions-gulf-mexico-red-grouper-catch-levels</a></li> <li>• Pacific Halibut Fisheries; Revisions to Catch Sharing Plan and Domestic Management Measures in Alaska. Rule published at 84 FR 52800. (RIN 0648-BH91) <a href="https://www.fisheries.noaa.gov/resource/document/pacific-halibut-catch-sharing-plan-csp-areas-2c-and-3a">https://www.fisheries.noaa.gov/resource/document/pacific-halibut-catch-sharing-plan-csp-areas-2c-and-3a</a></li> <li>• Fisheries of the Northeastern United States: Framework Adjustment 13 to the Atlantic Mackerel, Squid, and Butterfish FMP. Rule published at 84 FR 58053. (RIN 0648-BI49) <a href="https://www.fisheries.noaa.gov/bulletin/atlantic-mackerel-squid-and-butterfish-fishery-management-plan-framework-adjustment-13">https://www.fisheries.noaa.gov/bulletin/atlantic-mackerel-squid-and-butterfish-fishery-management-plan-framework-adjustment-13</a></li> <li>• Fisheries of the Northeastern United States; Jonah Crab Fishery; Interstate Fishery Management Plan for Jonah Crab. Rule published at 84 FR 61569. (RIN 0648-BF43) <a href="https://www.fisheries.noaa.gov/bulletin/noaa-fisheries-approves-measures-implement-interstate-fishery-management-plan-jonah">https://www.fisheries.noaa.gov/bulletin/noaa-fisheries-approves-measures-implement-interstate-fishery-management-plan-jonah</a></li> <li>• Atlantic Highly Migratory Species; 2020 Atlantic Shark Commercial Fishing Year. Rule published at 84 FR 65690. (RIN 0648-XT004) <a href="https://www.fisheries.noaa.gov/action/2020-commercial-atlantic-shark-fishing-quotas-dates-retention-limits">https://www.fisheries.noaa.gov/action/2020-commercial-atlantic-shark-fishing-quotas-dates-retention-limits</a></li> </ul>

Agency	Name of Rule(s)
Department of Commerce / National Oceanic and Atmospheric Administration	<ul style="list-style-type: none"> <li>• Magnuson-Stevens Act Provisions; Fisheries Off West Coast States; Pacific Coast Groundfish Fishery; Seabird Bycatch Avoidance Measures. Rule published at 84 FR 67674. (RIN 0648-BI99)  <a href="https://media.fisheries.noaa.gov/dam-migration/seabird-compliance-guidev6.pdf">https://media.fisheries.noaa.gov/dam-migration/seabird-compliance-guidev6.pdf</a></li> <li>• Magnuson-Stevens Act Provisions; Fisheries off West Coast States; Pacific Coast Groundfish Fishery; Pacific Whiting; Pacific Coast Groundfish Fishery Management Plan; Amendment 21-4; Catch Share Program, 5-Year Review, Follow-on Actions. Rule published at 84 FR 68799. (RIN 0648-BI35)  <a href="https://media.fisheries.noaa.gov/dam-migration/post-season-trading-compliance-guidev7-january2020.pdf">https://media.fisheries.noaa.gov/dam-migration/post-season-trading-compliance-guidev7-january2020.pdf</a></li> <li>• Amendment 120 to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area and Amendment 108 to the Fishery Management Plan for Groundfish of the Gulf of Alaska to Limit Mothership Operations in the Bering Sea and Aleutian Islands and Gulf of Alaska Pacific Cod Fisheries and Implementing Final Rule. Rule published at 84 FR 70064. (RIN 0648-BJ02)  <a href="https://www.fisheries.noaa.gov/action/amendment-120-fmp-groundfish-bering-sea-and-aleutian-islands-and-amendment-108-fmp">https://www.fisheries.noaa.gov/action/amendment-120-fmp-groundfish-bering-sea-and-aleutian-islands-and-amendment-108-fmp</a></li> <li>• Fisheries of the Exclusive Economic Zone off Alaska; Authorize the Retention of Halibut in Pot Gear in the BSAI; Amendment 118. Rule published at 85 FR 840. (RIN 0648-BI65)  <a href="https://www.fisheries.noaa.gov/alaska/commercial-fishing/small-entity-compliance-guide-final-rule-implements-amendment-118-fmp">https://www.fisheries.noaa.gov/alaska/commercial-fishing/small-entity-compliance-guide-final-rule-implements-amendment-118-fmp</a></li> <li>• Final Rule to Implement Regulatory Amendment 30 to the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region. Rule published at 85 FR 6825. (RIN 0648-BJ31)  <a href="https://www.fisheries.noaa.gov/bulletin/noaa-fisheries-announces-changes-management-red-grouper-federal-waters-south-atlantic">https://www.fisheries.noaa.gov/bulletin/noaa-fisheries-announces-changes-management-red-grouper-federal-waters-south-atlantic</a></li> <li>• Fisheries off West Coast States; Highly Migratory Fisheries; California Drift Gillnet Fishery; Protected Species Hard Caps for the California/Oregon Large-Mesh Drift Gillnet Fishery. (RIN 0648-BJ58)  <a href="https://media.fisheries.noaa.gov/dam-migration/wcr-hms-fmp-complianceguide2019.pdf">https://media.fisheries.noaa.gov/dam-migration/wcr-hms-fmp-complianceguide2019.pdf</a></li> </ul>



Agency	Name of Rule(s)
Department of Commerce / National Oceanic and Atmospheric Administration	<p><b>Agency Note:</b>            The Small Entity Compliance Guide for the entire west coast HMS FMP is in the process of being updated now. The update will include Drift Gillnet Hard Caps and other updates since the guide was last published in September 2019. <i>[Update 2/19 - The hard caps final rule was vacated by court order on 2/18/21. We will not include it in our HMS FMP compliance guide update.]</i></p> <ul style="list-style-type: none"> <li>• Fisheries of the Exclusive Economic Zone off Alaska; IFQ Program; Modify Medical and Beneficiary Transfer Provisions. Rule published at 85 FR 8477. (RIN 0648-BJ07)  <a href="https://www.fisheries.noaa.gov/alaska/sustainable-fisheries/pacific-halibut-and-sablefish-individual-fishing-quota-ifq-program">https://www.fisheries.noaa.gov/alaska/sustainable-fisheries/pacific-halibut-and-sablefish-individual-fishing-quota-ifq-program</a></li> <li>• Fisheries of the Exclusive Economic Zone Off Alaska; Rockfish Management in the Groundfish Fisheries of the Bering Sea and Aleutian Islands and the Gulf of Alaska. Rule published at 85 FR 9687. (RIN 0648-BJ03)  <a href="https://www.fisheries.noaa.gov/action/amendment-119-fmp-groundfish-bering-sea-and-aleutian-islands-and-amendment-107-fmp">https://www.fisheries.noaa.gov/action/amendment-119-fmp-groundfish-bering-sea-and-aleutian-islands-and-amendment-107-fmp</a></li> <li>• Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Coastal Migratory Pelagic Resources in the Gulf of Mexico and Atlantic Region; Framework Amendment 7. Rule published at 85 FR 10328. (RIN 0648-BI83)  <a href="https://www.fisheries.noaa.gov/action/modifications-gulf-mexico-migratory-group-cobia-size-and-possession-limits">https://www.fisheries.noaa.gov/action/modifications-gulf-mexico-migratory-group-cobia-size-and-possession-limits</a></li> <li>• Fisheries of the Northeastern United States; Atlantic Spiny Dogfish Fishery 2020; Spiny Dogfish Specifications. Rule published at 85 FR 13074. (RIN 0648-XX035)  <a href="https://www.fisheries.noaa.gov/bulletin/2020-spiny-dogfish-fishery-specifications">https://www.fisheries.noaa.gov/bulletin/2020-spiny-dogfish-fishery-specifications</a></li> </ul> <p><b>Agency Note:</b>            Original guide from May 13, 2019: <a href="https://www.fisheries.noaa.gov/bulletin/2019-2021-spiny-dogfish-fishery-specifications">https://www.fisheries.noaa.gov/bulletin/2019-2021-spiny-dogfish-fishery-specifications</a></p> <ul style="list-style-type: none"> <li>• Alaska Region Final 2020 and 2021 Harvest Specifications for Groundfish in the Bering Sea and Aleutian Islands. Rule published at 85 FR 13553. (RIN 0648-XH080)  <a href="https://www.fisheries.noaa.gov/alaska/sustainable-fisheries/alaska-groundfish-harvest-specifications">https://www.fisheries.noaa.gov/alaska/sustainable-fisheries/alaska-groundfish-harvest-specifications</a></li> </ul>

Agency	Name of Rule(s)
Department of Commerce / National Oceanic and Atmospheric Administration	<ul style="list-style-type: none"> <li>• Fisheries of the Exclusive Economic Zone off Alaska; Gulf of Alaska; Final 2020 and 2021 Harvest Specs for Groundfish. Rule published at 85 FR 13802. (RIN 0648-XY201)  <a href="https://www.fisheries.noaa.gov/alaska/sustainable-fisheries/alaska-groundfish-harvest-specifications">https://www.fisheries.noaa.gov/alaska/sustainable-fisheries/alaska-groundfish-harvest-specifications</a> </li> <li>• Atlantic Highly Migratory Species; Atlantic Bluefin Tuna Fisheries; Pelagic Longline Fishery Management. Rule published at 85 FR 18812. (RIN 0648-BI51)  <a href="https://www.fisheries.noaa.gov/action/pelagic-longline-bluefin-tuna-area-based-and-weak-hook-management-measures">https://www.fisheries.noaa.gov/action/pelagic-longline-bluefin-tuna-area-based-and-weak-hook-management-measures</a> </li> <li>• Pacific Halibut Catch Sharing Plan; Area 2A Regulations. Rule published at 85 FR 25317. (RIN 0648-BJ39)  <a href="https://www.fisheries.noaa.gov/bulletin/2020-commercial-and-recreational-pacific-halibut-fisheries-washington-oregon-and">https://www.fisheries.noaa.gov/bulletin/2020-commercial-and-recreational-pacific-halibut-fisheries-washington-oregon-and</a> </li> <li>• Magnuson-Stevens Act Provisions; Fisheries of the Northeast United States; Atlantic Herring Fishery; Framework Adjustment 6 and the 2019-2020 Atlantic Herring Fishery Specifications. Rule published at 85 FR 26874. (RIN 0648-BJ13)  <a href="https://www.fisheries.noaa.gov/action/adjustment-6-and-2019-2021-atlantic-herring-fishery-specifications">https://www.fisheries.noaa.gov/action/adjustment-6-and-2019-2021-atlantic-herring-fishery-specifications</a> </li> <li>• Fisheries of the Northeastern United States; Habitat Clam Dredge Exemption Framework. Rule published at 85 FR 29870. (RIN 0648-BI77)  <a href="https://www.fisheries.noaa.gov/bulletin/atlantic-surfclam-permit-holders-noaa-fisheries-announces-creation-three-exemption">https://www.fisheries.noaa.gov/bulletin/atlantic-surfclam-permit-holders-noaa-fisheries-announces-creation-three-exemption</a> </li> <li>• Magnuson-Stevens Act Provisions; Fisheries Off West Coast States; Vessel Movement, Monitoring, and Declaration Management for the Pacific Coast Groundfish Fishery. Rule published at 85 FR 35594. (RIN 0648-BI45)  <a href="https://media.fisheries.noaa.gov/dam-migration/vessel_movement-complianceguide2020.pdf">https://media.fisheries.noaa.gov/dam-migration/vessel_movement-complianceguide2020.pdf</a> </li> </ul>

Agency	Name of Rule(s)
Department of Commerce / National Oceanic and Atmospheric Administration	<ul style="list-style-type: none"> <li data-bbox="602 281 1485 499"> <p>• Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Snapper-Grouper Fishery of the South Atlantic Region; Regulatory Amendment 29. Rule published at 85 FR 36166. (RIN 0648-BI81).  <a href="https://www.fisheries.noaa.gov/bulletin/noaa-fisheries-announces-gear-modifications-snapper-grouper-fishery">https://www.fisheries.noaa.gov/bulletin/noaa-fisheries-announces-gear-modifications-snapper-grouper-fishery</a></p> </li> <li data-bbox="602 516 1485 806"> <p>• Magnuson-Stevens Act Provisions; Fisheries off West Coast States; Pacific Coast Groundfish Fishery; 2020 Harvest Specifications for Pacific Whiting, Cowcod and Shortbelly Rockfish and 2020 Pacific Whiting Tribal Allocation. Rule published at 85 FR 36803. (RIN 0648-BJ53)  <a href="https://www.fisheries.noaa.gov/action/2020-harvest-specifications-pacific-whiting-cowcod-and-shortbelly-rockfish-and-2020-pacific">https://www.fisheries.noaa.gov/action/2020-harvest-specifications-pacific-whiting-cowcod-and-shortbelly-rockfish-and-2020-pacific</a></p> </li> <li data-bbox="602 823 1485 1079"> <p>• Final Rule; Area of Overlap Between the Convention Areas of the Inter-American Tropical Tuna Commission and the Western and Central Pacific Fisheries Commission. Rule published at 85 FR 37376. (RIN 0648-BH59).  <a href="https://www.fisheries.noaa.gov/pacific-islands/resources-fishing/regulation-summaries-and-compliance-guides-pacific-islands">https://www.fisheries.noaa.gov/pacific-islands/resources-fishing/regulation-summaries-and-compliance-guides-pacific-islands</a></p> </li> <li data-bbox="602 1096 1485 1352"> <p>• Fisheries of the Northeastern United States; Atlantic Bluefish Fishery; Revised 2020 and Projected 2021 Specifications and Recreational Management Measures. Rule published at 85 FR 38794. (RIN 0648-BJ61).  <a href="https://www.fisheries.noaa.gov/bulletin/revised-2020-2021-atlantic-bluefish-specifications-and-recreational-management">https://www.fisheries.noaa.gov/bulletin/revised-2020-2021-atlantic-bluefish-specifications-and-recreational-management</a></p> </li> <li data-bbox="602 1369 1485 1549"> <p>• Fisheries of the Exclusive Economic Zone off Alaska; Adjust the North Pacific Observer Program Fee. Rule published at 85 FR 41424. (RIN 0648-BJ40).  <a href="https://www.fisheries.noaa.gov/alaska/fisheries-observers/north-pacific-observer-program">https://www.fisheries.noaa.gov/alaska/fisheries-observers/north-pacific-observer-program</a></p> </li> <li data-bbox="602 1566 1485 1814"> <p>• Fisheries of the Exclusive Economic Zone Off Alaska; Reclassifying Sculpin Species in the Groundfish Fisheries of the Bering Sea and Aleutian Islands and the Gulf of Alaska. Rule published at 85 FR 41427. (RIN 0648-BJ49)  <a href="https://www.fisheries.noaa.gov/action/amendment-121-fishery-management-plan-groundfish-bering-sea-and-aleutian-islands-and">https://www.fisheries.noaa.gov/action/amendment-121-fishery-management-plan-groundfish-bering-sea-and-aleutian-islands-and</a></p> </li> </ul>

Agency	Name of Rule(s)
<p>Department of Commerce / National Oceanic and Atmospheric Administration</p>	<ul style="list-style-type: none"> <li>• Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Electronic Reporting for Federally Permitted Charter Vessels and Headboats in Gulf of Mexico Fisheries. Rule published at 85 FR 44005. (RIN 0648-BH72). <a href="https://www.fisheries.noaa.gov/bulletin/modifications-charter-vessel-and-headboat-electronic-reporting-requirements">https://www.fisheries.noaa.gov/bulletin/modifications-charter-vessel-and-headboat-electronic-reporting-requirements</a></li> <li>• Final Rule to implement Framework 59 to the NE Multispecies FMP. Rule published at 85 FR 45794. (RIN 0648-BJ12) <a href="https://www.fisheries.noaa.gov/bulletin/northeast-multispecies-groundfish-fishing-year-2020-regulations">https://www.fisheries.noaa.gov/bulletin/northeast-multispecies-groundfish-fishing-year-2020-regulations</a></li> <li>• Magnuson-Stevens Fishery Conservation and Management Act Provisions; Fisheries of the Northeastern United States; Amendment 21 to the Atlantic Mackerel, Squid, and Butterfish Fishery Management Plan. Rule published at 85 FR 47103. (RIN 0648-BJ16) <a href="https://www.fisheries.noaa.gov/bulletin/final-rule-implementing-amendment-21-atlantic-mackerel-squid-and-butterfish-fishery">https://www.fisheries.noaa.gov/bulletin/final-rule-implementing-amendment-21-atlantic-mackerel-squid-and-butterfish-fishery</a></li> </ul>
<p>Department of Health and Human Services / Centers for Medicare &amp; Medicaid Services</p>	<ul style="list-style-type: none"> <li>• Medicare Program; CY 2020 Revisions to Payment Policies Under the Physician Fee Schedule and Other Changes to Part B Payment Policies; Medicare Shared Savings Program Requirements; Medicaid Promoting Interoperability Program Requirements for Eligible Professionals; Establishment of an Ambulance Data Collection System; Updates to the Quality Payment Program; Medicare Enrollment of Opioid Treatment Programs and Enhancements to Provider Enrollment Regulations Concerning Improper Prescribing and Patient Harm; and Amendments to Physician Self-Referral Law Advisory Opinion Regulations Final Rule; and Coding and Payment for Evaluation and Management, Observation and Provision of Self-Administered Esketamine (CMS-1715-F and CMS-1715-IFC, November 15, 2019 at 84 FR 62568-63563)</li> <li>• Medicare Program; Hospital Inpatient Prospective Payment Systems for Acute Care Hospitals and the Long Term Care Hospital Prospective Payment System and Final Policy Changes and Fiscal Year 2021 Rates; Quality Reporting and Medicare and Medicaid Promoting Interoperability Programs Requirements for Eligible Hospitals and Critical Access Hospitals (CMS-1735-F, September 18, 2020 at 85 FR 58432-59107) <a href="https://www.cms.gov/Regulations-and-Guidance/Guidance/SmallEntity">https://www.cms.gov/Regulations-and-Guidance/Guidance/SmallEntity</a></li> </ul>

Agency	Name of Rule(s)
Department of Health and Human Services / Food and Drug Administration	<ul style="list-style-type: none"> <li>• List of Bulk Drug Substances that Can be Used to Compound Drug Products in Accordance with Section 503A of the Federal Food, Drug and Cosmetic Act</li> <li>• Medical Devices; Orthopedic Devices: Classification of Posterior Cervical Screw System</li> <li>• Safety and Effectiveness of Consumer Antiseptic Rubs; Topical Antimicrobial Drug Products for Over-the-Counter Human Use</li> </ul>
Securities and Exchange Commission	<ul style="list-style-type: none"> <li>• Accelerated Filer and Large Accelerated Filer Definition</li> <li>• Financial Disclosures about Guarantors and Issuers of Guaranteed Securities and Affiliates Whose Securities Collateralize a Registrant’s Securities</li> <li>• Securities Offering Reform for Closed-End Investment Companies</li> <li>• Amendments to Financial Disclosures about Acquired and Disposed Businesses</li> <li>• Amendments to Procedures with Respect to Applications under the Investment Company Act of 1940</li> <li>• Exemptions from the Proxy Rules for Proxy Voting Advice</li> <li>• Amending the “Accredited Investor” Definition</li> <li>• Procedural Requirements and Resubmission Thresholds under Exchange Act Rule 14a-8</li> </ul>
Environmental Protection Agency	<ul style="list-style-type: none"> <li>• Accidental Release Prevention Requirements: Risk Management Programs Under the Clean Air Act</li> </ul>
National Labor Relations Board	<ul style="list-style-type: none"> <li>• Joint Employer Rule</li> <li>• The Election Protection Rule</li> <li>• Representation Case Procedures</li> </ul> <p><b>Agency Note:</b></p> <p>The Representation Rule was issued as a procedural rule, thus no compliance guide is required under Section 212 of SBREFA. However, a General Counsel memo, GC 20-07, provides guidance to all stakeholders concerning the procedural changes to Representation cases contained in this rule. That memo may be found at, <a href="https://www.nlr.gov/guidance/memos-research/general-counsel-memos">https://www.nlr.gov/guidance/memos-research/general-counsel-memos</a>. In addition, the Agency’s Regional Offices nationwide conducted numerous virtual public training and outreach sessions to assist in educating the public concerning procedural changes to Representation case handling as discussed in GC 20-07.</p>

Agency	Name of Rule(s)
Federal Reserve Board	<ul style="list-style-type: none"> <li>Net Stable Funding Ratio: Liquidity Risk Measurement Standards and Disclosure Requirements. RIN 1557-AD97  <b>Published:</b> Feb. 11, 2021, <b>Effective:</b> July 1, 2021  <b>Description:</b> Final Rule  <b>Effective:</b> July 1, 2021  <b>Published:</b> Feb. 11, 2021  <b>Identifier:</b> 1557-AD97  <b>Fed. Reg. Number:</b> 86 FR 9120  <b>Agency Note:</b>                      One Federal Reserve Board (Board) rule issued in 2020 included a final regulatory flexibility analysis but for which a small entity compliance guide was not developed in accordance with requirements under SBREFA. In that instance, the Board’s impact analysis concluded that the final rule would not have a significant economic impact on a substantial number of small entities, and the rule is not expected to regulate any class of Board-supervised small entities for purposes of the RFA. Based on the Board’s policies and procedures for complying with SBREFA, the staff is of the view that certification would have been an appropriate course of action in that instance. The staff has taken steps to prevent a recurrence of this issue, including ensuring that relevant staff working on rulemakings have copies of the Board’s policies and procedures for complying with SBREFA.</li> </ul>

Agency	Name of Rule(s)
<p>Department of Labor / Employee Benefits Security Administration</p>	<p>Default Electronic Disclosures for Employee Pension Benefit Plans under ERISA</p> <ul style="list-style-type: none"> <li>• The Department issued a final regulation on May 27, 2020 (85 FR 31884). A copy of the final rule is available at: <a href="https://www.federalregister.gov/documents/2020/05/27/2020-10951/defaultelectronic-disclosure-by-employee-pension-benefit-plans-under-erisa">https://www.federalregister.gov/documents/2020/05/27/2020-10951/defaultelectronic-disclosure-by-employee-pension-benefit-plans-under-erisa</a>.</li> <li>• The Department updated four publications that help small employers understand their responsibilities under ERISA, including disclosures that must be made to plan participants and beneficiaries about ERISA retirement plans. These publications were updated to add information about the new electronic delivery safe harbor for furnishing such disclosures, including educational material for small employers on how to comply with the notice, opt-out, and other requirements of the new safe harbor. The relevant publications, which include the SBREFA notice, include: (1) Meeting Your Fiduciary Responsibilities (English and Spanish); (2) 401(k) Plans for Small Businesses; (3) Automatic Enrollment 401(k) Plans for Small Businesses; and (4) Profit Sharing Plans for Small Businesses. In addition, a news release issued with the final rule noted a non-enforcement policy included in the final rule that allowed employers to rely on the safe harbor immediately upon its publication to benefit from the flexibility provided by the safe harbor and the reduced administrative burden on employers and plan service providers as they work to address the impacts of the national COVID-19 pandemic.</li> </ul>

Agency	Name of Rule(s)
<p>Department of Labor / Employee Benefits Security Administration</p>	<p>The updated publications (508 compliant) were posted in several key locations on the Department’s EBSA webpage, including the publications page, the plan administration and guidance page, and the small business page.</p> <ul style="list-style-type: none"> <li>Meeting Your Fiduciary Responsibilities is available at: <a href="https://www.dol.gov/sites/dolgov/files/EBSA/about-ebsa/our-activities/resource-center/publications/meeting-your-fiduciary-responsibilities.pdf">https://www.dol.gov/sites/dolgov/files/EBSA/about-ebsa/our-activities/resource-center/publications/meeting-your-fiduciary-responsibilities.pdf</a>, and is also available online in Spanish.</li> </ul> <p>Three of the updated publications also included the revised Internal Revenue Service contribution limits for 2021, which were announced in early November 2020. 401(k) Plans for Small Businesses is available at: <a href="https://www.dol.gov/sites/dolgov/files/EBSA/about-ebsa/our-activities/resource-center/publications/401k-plans-for-small-businesses.pdf">https://www.dol.gov/sites/dolgov/files/EBSA/about-ebsa/our-activities/resource-center/publications/401k-plans-for-small-businesses.pdf</a>. Automatic Enrollment 401(k) Plans for Small Businesses is available at: <a href="https://www.dol.gov/sites/dolgov/files/ebsa/about-ebsa/our-activities/resource-center/publications/automatic-enrollment-401k-plans-for-small-businesses.pdf">https://www.dol.gov/sites/dolgov/files/ebsa/about-ebsa/our-activities/resource-center/publications/automatic-enrollment-401k-plans-for-small-businesses.pdf</a>. Profit Sharing Plans for Small Businesses is available at: <a href="https://www.dol.gov/sites/dolgov/files/ebsa/about-ebsa/our-activities/resource-center/publications/profit-sharing-plans-for-small-businesses.pdf">https://www.dol.gov/sites/dolgov/files/ebsa/about-ebsa/our-activities/resource-center/publications/profit-sharing-plans-for-small-businesses.pdf</a>.</p> <p>Further, all publications are accessible on a dedicated webpage for small businesses on EBSA’s website at: <a href="https://www.dol.gov/agencies/ebsa/employers-and-advisers/small-business">https://www.dol.gov/agencies/ebsa/employers-and-advisers/small-business</a>. The news release issued with the final rule is available at: <a href="https://www.dol.gov/newsroom/releases/ebsa/ebsa20200521">https://www.dol.gov/newsroom/releases/ebsa/ebsa20200521</a>, and both are posted on EBSA’s website, as well as on the newsroom page.</p>
<p>Department of Labor / Wage and Hour Division</p>	<p>Joint Employer Status Under the Fair Labor Standards Act (FLSA). In FY2020 the WHD published one final rule subject to the requirements of Section 212(a)(6) of SBREFA. WHD updated and revised the regulations interpreting joint employer status under the FLSA. The final rule was published in the Federal Register on January 16, 2020. WHD published a Small Entity Compliance Guide in association with this final rule. The Small Entity Compliance Guide was published on WHD’s website on January 12, 2020, along with a copy of the final rule, four days before the publication of the final rule in the Federal Register on January 16, 2020. Following a lawsuit in which the district court ruled that much of the final rule titled Joint Employer Status Under the FLSA was unlawful, WHD engaged in further rulemaking resulting in the rescission of the final rule effective on October 5, 2021. See <a href="https://www.federalregister.gov/documents/2021/09/21/2021-20100/rescission-of-joint-employer-status-under-the-fair-labor-standards-act-rule-delay-of-effective-date">https://www.federalregister.gov/documents/2021/09/21/2021-20100/rescission-of-joint-employer-status-under-the-fair-labor-standards-act-rule-delay-of-effective-date</a>. Accordingly, the Small Entity Compliance Guide for the Joint Employer Status Under the FLSA final rule is no longer available.</p>



Agency	Name of Rule(s)
Consumer Financial Protection Bureau	<ul style="list-style-type: none"> <li data-bbox="602 279 1485 510"> <p>• <a href="#">Truth in Lending (Regulation Z); Screening and Training Requirements for Mortgage Loan Originators with Temporary Authority</a> (84 FR 67391)</p> <p><i>* The Bureau issued two final rules on Regulation C (Home Mortgage Disclosure) in FY 2020 and updated the small entity compliance guide accordingly.</i></p> </li> <li data-bbox="602 527 1485 768"> <p>• <a href="#">Home Mortgage Disclosure (Regulation C)</a> (84 FR 57946 and 85 FR 28364)</p> <p><b>NOTE:</b> The initial version of the small entity compliance guide was published in December 2015.</p> <p><i>* The Bureau issued a final rule on Remittance Transfers in FY 2020 and updated the small entity compliance guide accordingly.</i></p> </li> <li data-bbox="602 785 1485 1062"> <p>• <a href="#">Remittance Transfers under the Electronic Fund Transfer Act</a> (85 FR 34870)</p> <p><b>NOTE:</b> The initial version of the small entity compliance guide was published in October 2012.</p> <p><i>* The Bureau issued a final rule on Payday, Vehicle Title, and Certain High-Cost Installment Loans in FY 2020 and updated the small entity compliance guide accordingly.</i></p> </li> <li data-bbox="602 1079 1485 1234"> <p>• <a href="#">Payday, Vehicle Title, and Certain High-Cost Installment Loans</a> (85 FR 44382)</p> <p><b>NOTE:</b> The initial version of the small entity compliance guide was published in February 2019.</p> </li> </ul>
Federal Deposit Insurance Corporation	<ul style="list-style-type: none"> <li data-bbox="602 1255 1463 1318"> <p>• Standardized Approach for Calculating the Exposure Amount of Derivative Contracts</p> </li> </ul>
Department of Education	<ul style="list-style-type: none"> <li data-bbox="602 1344 1117 1371"> <p>• Distance Education and Innovation</p> </li> </ul>
Consumer Product Safety Commission	<ul style="list-style-type: none"> <li data-bbox="602 1392 1463 1719"> <p>• The one rulemaking from the US Consumer Product Safety Commission in FY2020 that fell under the SBREFA was the rulemaking on the Revision to the Safety Standard of Sling Carriers that became effective on July 7, 2020. The published Small Entity Compliance Guide for Sling Carriers is available online here:  <a href="https://cpsc.gov/business--manufacturing/business-education/business-guidance/sling-carriers-business-guidance-small-entity-compliance-guide">https://cpsc.gov/business--manufacturing/business-education/business-guidance/sling-carriers-business-guidance-small-entity-compliance-guide</a></p> </li> </ul>

Agency	Name of Rule(s)
Federal Communications Commission	<ul style="list-style-type: none"> <li>• “Transforming the 2.5 GHz Band” <a href="https://docs.fcc.gov/public/attachments/DA-20-510A1.pdf">https://docs.fcc.gov/public/attachments/DA-20-510A1.pdf</a></li> <li>• “Reexamination of the Comparative Standards and Procedures for Licensing Noncommercial Educational Broadcast Stations and Low Power FM Stations” <a href="https://docs.fcc.gov/public/attachments/DA-20-509A1.pdf">https://docs.fcc.gov/public/attachments/DA-20-509A1.pdf</a></li> <li>• “Incentive Auction of Upper Microwave Flexible Use Service Licenses” <a href="https://docs.fcc.gov/public/attachments/DA-20-508A1.pdf">https://docs.fcc.gov/public/attachments/DA-20-508A1.pdf</a></li> <li>• “Wireless E911 Location Accuracy Requirements” <a href="https://docs.fcc.gov/public/attachments/DOC-365168A1.pdf">https://docs.fcc.gov/public/attachments/DOC-365168A1.pdf</a></li> <li>• “Implementing Kari’s Law and Section 506 of RAY BAUM’S Act” <a href="https://docs.fcc.gov/public/attachments/DA-20-431A1.pdf">https://docs.fcc.gov/public/attachments/DA-20-431A1.pdf</a></li> <li>• “Electronic Delivery of Notices to Broadcast Television Stations; Modernization of Media Regulation Initiative” <a href="https://docs.fcc.gov/public/attachments/DA-20-311A1.pdf">https://docs.fcc.gov/public/attachments/DA-20-311A1.pdf</a></li> <li>• “Updating the Inter-carrier Compensation Regime to Eliminate Access Arbitrage” <a href="https://docs.fcc.gov/public/attachments/DA-20-284A1.pdf">https://docs.fcc.gov/public/attachments/DA-20-284A1.pdf</a></li> <li>• “Implementing Section 503 of RAY BAUM’S Act Rules and Regulation Implementing the Truth in Caller ID Act of 2009” <a href="https://docs.fcc.gov/public/attachments/DA-20-98A1.pdf">https://docs.fcc.gov/public/attachments/DA-20-98A1.pdf</a></li> <li>• “Auction of Toll-free Numbers in the 833 Code” <a href="https://docs.fcc.gov/public/attachments/DA-19-1230A1.pdf">https://docs.fcc.gov/public/attachments/DA-19-1230A1.pdf</a></li> <li>• “Leased Commercial Access; Modernization of Media Regulation Initiative” <a href="https://docs.fcc.gov/public/attachments/DA-19-1180A1.pdf">https://docs.fcc.gov/public/attachments/DA-19-1180A1.pdf</a></li> <li>• “Children’s Television Programming Rules” <a href="https://docs.fcc.gov/public/attachments/DA-19-926A1.pdf">https://docs.fcc.gov/public/attachments/DA-19-926A1.pdf</a></li> <li>• “Amendment of Section 73.3613 of the Commission’s Rules Regarding Filing of Contracts” <a href="https://docs.fcc.gov/public/attachments/DA-19-451A1.pdf">https://docs.fcc.gov/public/attachments/DA-19-451A1.pdf</a></li> <li>• “Posting of Station Licenses and Related Information” <a href="https://docs.fcc.gov/public/attachments/DA-19-450A1.pdf">https://docs.fcc.gov/public/attachments/DA-19-450A1.pdf</a></li> </ul>
Department of Energy	Energy Conservation Standards for Commercial Packaged Boilers (85 FR 1592, Jan. 10, 2020), and Energy Conservation Standards for Air Compressors (85 FR 1504, Jan. 10, 2020)
Nuclear Regulatory Commission	• Revision of Fee Schedules; Fee Recovery for Fiscal Year 2020

Agency	Name of Rule(s)
Federal Energy Regulatory Commission	<ol style="list-style-type: none"> <li>1. Order No. 869: Final Rule; Reporting of Transmission Investments (RM20-11)</li> <li>2. Order No. 865 Final Rule; re Civil Monetary Penalty Inflation Adjustments (RM20-2)</li> <li>3. Final Rule; Annual Update of Commission Filing Fees (RM20-3)</li> <li>4. Order No. 871: Final Rule re Limiting Authorizations to Proceed with Construction Activities Pending Rehearing (RM20-15)</li> <li>5. Order No. 870: Final Rule re Delegation of Authority (RM20-13)</li> <li>6. Order No. 873: Final Rule; re Electric Reliability Organization Proposal to Retire Requirements in Reliability Standards under the North American Reliability Organization Standards Efficiency Review (RM19-16 et al)</li> <li>7. Order No. 872 Final Rule; re Qualifying Facility Rates and Requirements Implementation Issues Under the Public Utility Regulatory Policies Act of 1978 (RM19-15 et al.)</li> <li>8. Order No. 868: Final Rule regarding Custody and Authentication of Commission Records (RM19-7)</li> <li>9. Order No. 867: Final rule; re Transmission Planning Reliability Standard TPL-001-5 (RM19-10)</li> <li>10. Order No. 864: Final Rule re Public Utility Transmission Rate Changes to Address Accumulated Deferred Income Taxes under RM19-5.</li> <li>11. Order No. 2222: Final Rule re Participation of Distributed Energy Resource Aggregations in Markets Operated by Regional Transmission Organizations etc. under RM18-9.</li> <li>12. Order No. 866: Final rule; re Critical Infrastructure Protection Reliability Standard CIP-012-1 - Cyber Security - Communications between Control Centers under RM18-20</li> </ol>

Agency	Name of Rule(s)
<p>Department of Transportation / Federal Railroad Administration</p>	<p>The only rule in FY2020 for which FRA was unable to certify that it would not have a significant impact on a substantial number of small entities is Risk Reduction Program, 2130-AC11. On February 18, 2020, FRA published the Risk Reduction Program final rule, in which FRA did not certify that the rule will not have a significant impact on a substantial number of small entities (85 FR 9307-11). FRA has taken reasonable measures to ensure the rule’s impact is commensurate with business size, and FRA will aid small railroad compliance in their development of Risk Reduction Programs. In compliance with SBREFA, FRA is developing a compliance guide to assist small entities in complying with the rule and will be placing this guide in the public docket for this rulemaking. Currently, no small entities are required to comply with the rule and the small entities compliance guide will be issued prior to any small entities having to comply with the rule.</p> <p>In addition to the above, the Department published several rules in FY 2020, but none required a final Regulatory Flexibility Analysis because each operating administration certified in the rules’ preambles that there were no Significant Economic Impact on a Substantial Number of Small Entities (SEISNOSE). Therefore, no small entity compliance guides are required by law to be published.</p>
<p>U.S. Small Business Administration</p>	<ul style="list-style-type: none"> <li>• Streamlining and Modernizing Certified Development Company Program (504 Loan Program) Corporate Governance Requirements 84 FR 66287</li> <li>• SBA Supervised Lenders Application Process 85 FR 1783</li> <li>• Express Loan Programs; Affiliation Standards 85 FR 7622</li> <li>• Regulatory Reform Initiative: Program for Investment in Microentrepreneurs (PRIME) 85 FR 7254</li> <li>• Regulatory Reform Initiative: Intermediary Lending Pilot Program 85 FR 12875</li> <li>• Implementation of the Small Business 7(a) Lending Oversight Reform Act of 2018 85 FR 14772</li> <li>• Express Bridge Loan Pilot Program; Modification of Eligibility and Loan Approval Deadline and Extension of Pilot Program 85 FR 18107</li> <li>• Business Loan Program Temporary Changes; Paycheck Protection Program 85 FR 20811</li> </ul>

Agency	Name of Rule(s)
U.S. Small Business Administration	<ul style="list-style-type: none"> <li>• Business Loan Program Temporary Changes; Paycheck Protection Program 85 FR 20817</li> <li>• Business Loan Program Temporary Changes; Paycheck Protection Program-Additional Eligibility Criteria and Requirements for Certain Pledges of Loans 85 FR 21747</li> <li>• Business Loan Program Temporary Changes; Paycheck Protection Program-Requirements-Promissory Notes, Authorizations, Affiliation, and Eligibility 85 FR 23450</li> <li>• Business Loan Program Temporary Changes; Paycheck Protection Program-Requirements-Disbursements 85 FR 26321</li> <li>• Business Loan Program Temporary Changes; Paycheck Protection Program-Requirements-Corporate Groups and Non-Bank and Non-Insured Depository Institution Lenders 85 FR 26324</li> <li>• Business Loan Program Temporary Changes; Paycheck Protection Program-Nondiscrimination and Additional Eligibility Criteria 85 FR 27287</li> <li>• Business Loan Program Temporary Changes; Paycheck Protection Program-Requirements-Extension of Limited Safe Harbor with Respect to Certification Concerning Need for PPP Loan Request 85 FR 29845</li> <li>• Business Loan Program Temporary Changes; Paycheck Protection Program-Loan Increases 85 FR 29842</li> <li>• Business Loan Program Temporary Changes; Paycheck Protection Program-Eligibility of Certain Electric Cooperatives 85 FR 29847</li> <li>• Business Loan Program Temporary Changes; Paycheck Protection Program-Treatment of Entities with Foreign Affiliates 85 FR 30835</li> <li>• Business Loan Program Temporary Changes; Paycheck Protection Program-Second Extension of Limited Safe Harbor with Respect to Certification Concerning Need for PPP Loan and Lender Reporting 85 FR 31357</li> <li>• Business Loan Program Temporary Changes; Paycheck Protection Program-SBA Loan Review Procedures and Related Borrower and Lender Responsibilities 85 FR 33010</li> </ul>

Agency	Name of Rule(s)
<p>U.S. Small Business Administration</p>	<ul style="list-style-type: none"> <li>• Business Loan Program Temporary Changes; Paycheck Protection Program-Requirements-Loan Forgiveness 85 FR 33004</li> <li>• Business Loan Program Temporary Changes; Paycheck Protection Program-Eligibility of Certain Telephone Cooperatives 85 FR 35550</li> <li>• Business Loan Program Temporary Changes; Paycheck Protection Program-Revisions to First Interim Final Rule 85 FR 36308</li> <li>• Business Loan Program Temporary Changes; Paycheck Protection Program-Additional Revisions to First Interim Final Rule 85 FR 36717</li> <li>• Business Loan Program Temporary Changes; Paycheck Protection Program-Revisions to the Third and Sixth Interim Final Rules 85 FR 36997</li> <li>• Business Loan Program Temporary Changes; Paycheck Protection Program-Revisions to Loan Forgiveness and Loan Review Procedures Interim Final Rules 85 FR 38304</li> <li>• Business Loan Program Temporary Changes; Paycheck Protection Program-Additional Eligibility Revisions to First Interim Final Rule 85 FR 38301</li> <li>• Business Loan Program Temporary Changes; Paycheck Protection Program-Certain Eligible Payroll Costs 85 FR 39066</li> <li>• Appeals of SBA Loan Review Decisions Under the Paycheck Protection Program 85 FR 52883</li> <li>• Business Loan Program Temporary Changes; Paycheck Protection Program-Treatment of Owners and Forgiveness of Certain Nonpayroll Costs 85 FR 52881</li> </ul> <p><b>Agency Notes:</b></p> <p>SBA published seven (7) Rules for the Regular 7a, 504 and/or Microloan Program. SBA published these as interim final rather than proceeding to a final rule to provide the public with an additional opportunity to comment and to allow for any necessary adjustments as the industry moves through the economic cycle.</p> <ol style="list-style-type: none"> <li>1. Streamlining and Modernizing Certified Development Company Program (504 Loan Program) Corporate Governance Requirements.</li> </ol>

Agency	Name of Rule(s)
U.S. Small Business Administration	<ol style="list-style-type: none"> <li data-bbox="602 281 1224 312">2. SBA Supervised Lenders Application Process.</li> <li data-bbox="602 329 1490 657">3. Express Loan Programs; Affiliation Standards. On February 10, 2020, SBA published the Express interim final rule (“Express IFR”) with a request for comment to provide the public with an additional opportunity to comment on the modifications to the rule. (<a href="#">85 FR 7622</a>). The interim final rule became effective on March 11, 2020, except that compliance with two of the regulatory provisions, <a href="#">13 CFR 103.5(b)</a> (Fees an Agent may charge a Borrower) and <a href="#">13 CFR 120.221(a)</a> (Fees a Lender may charge a Borrower) was delayed until October 1, 2020.  On March 27, 2020, President Trump signed into law, the Coronavirus Aid, Relief, and Economic Security Act (CARES Act) (<a href="#">Pub. L. 116-136, 134 Stat 281</a>). Section 1102(e) of that Act permanently rescinded the Express IFR effective March 27, 2020. In light of this rescission, SBA is issuing the amendments identified below to remove all of the regulations that were added by the interim final rule and restore the regulations that were in effect prior to the effective date of the Express IFR. For loans made between March 11, 2020, and March 27, 2020, SBA Lenders should have complied with the regulations in effect during that period.  On December 14, 2020, SBA published the Express Loan Programs; Affiliation Standards – Rescission (<a href="#">85 FR 80581</a>). The delay in the publication of the rescission was caused by the significant efforts made by the entire staff of SBA’s Office of Capital Access focusing on developing, implementing, and delivering the Paycheck Protection Program, the largest SBA loan program in the history of the Agency.</li> <li data-bbox="602 1367 1382 1436">4. Regulatory Reform Initiative: Program for Investment in Microentrepreneurs (PRIME)</li> <li data-bbox="602 1453 1382 1522">5. Regulatory Reform Initiative: Intermediary Lending Pilot Program</li> <li data-bbox="602 1539 1446 1608">6. Implementation of the Small Business 7(a) Lending Oversight Reform Act of 2018</li> </ol>

Agency	Name of Rule(s)
	<p>7. Express Bridge Loan Pilot Program (EBL); Modification of Eligibility and Loan Approval Deadline and Extension of Pilot Program. The program extended to March 13, 2021, and updated the pilot to allow for a Presidentially declared emergency where it was historically designated only for Presidentially declared disasters. The modification was made to aid in interim financial assistance at the onset of the enactment of the CARES Act and prior to the Paycheck Protection Loan Program (PPP) rollout and EIDL. The PPP rollout was achieved in record time and improved EIDL processing provided aid to business efficiently. As a result, the EBL was underutilized by participating lenders.</p> <p>Lastly, SBA published twenty-three (23) Interim Final Rules related to PPP that was implemented because of the enactment of the CARES Act. On December 27, 2020 Economic Aid to Hard Hit Small Businesses, Nonprofits and Venues Act (Economic Aid Act) was enacted extending PPP through March 31, 2021. SBA in consultation with the Treasury continues to issue rules that reflect those legislative changes.</p>
<p>Department of Homeland Security / Citizenship and Immigration Services</p>	<ul style="list-style-type: none"> <li>• Inadmissibility on Public Charge Grounds</li> <li>• Fiscal Year 2019 EB-5 Immigrant Investor Program Modernization</li> <li>• Removal of 30-Day Processing Provision for Asylum Applicant-Related Form I-765 Employment Authorization Applications</li> <li>• Fiscal Year 2020 DHS Asylum Application, Interview, and Employment Authorization for Applicants Final Rule</li> </ul>



ONO provides entrepreneurs with a critical voice at the table and, most importantly, a process that ensures that their voice will be heard. Through this established and proven role, ONO has facilitated many productive resolutions and positive outcomes for America’s small businesses.

**Dr. Deborah Osgood,**  
**Regulatory Fairness Board Member – SBA Region I**



# FY2020 AGENCY RATINGS

Cabinet Agencies	Overall	Comments <sup>^</sup>		SBREFA Compliance		
		Response Timeliness	Response Quality	Non-Retaliation Policies	Compliance Assistance	SBREFA Notification
<b>Agriculture</b>						
Agriculture Marketing Service	A	A	A	A	A	A
<b>Commerce</b>						
National Oceanic & Atmospheric Administration (NOAA)	A	N/C	N/C	A	A	A
Bureau of Industry and Security (BIS)	A	A	A	A	A	A
<b>Defense</b>						
Army	A	A	A	A	A	A
Air Force	A	A	A	A	A	A
Navy	A	A	A	A	A	A
<b>Education</b>	A	N/C	N/C	A	A	A
<b>Energy</b>	A	N/C	N/C	A	A	A
<b>Health and Human Services</b>						
Food & Drug Administration	A	A	A	A	A	A
Centers for Medicare & Medicaid Services	A	A	A	A	A	C
<b>Homeland Security</b>						
Coast Guard	A	N/C	N/C	A	A	A
Customs & Border Protection	A	A	A	A	A	A
Immigration & Customs Enforcement	A	B	A	A	A	A

Cabinet Agencies	Overall	Comments ^		SBREFA Compliance		
		Response Timeliness	Response Quality	Non-Retaliation Policies	Compliance Assistance	SBREFA Notification
Citizenship and Immigration Services	A	A	A	A	A	A
Housing & Urban Development	A	N/C	N/C	A	A	A
Interior	A	B	A	A	A	A
Justice	A	A	A	A	A	A
<b>Labor</b>						
Occupational Safety & Health Administration	A	A	A	A	A	A
Wage & Hour Division	A	A	A	A	A	A
Mine Safety & Health Administration	A	N/C	N/C	A	A	A
Employee Benefits Security Administration (EBSA)	A	N/C	N/C	A	A	A
<b>Small Business Administration</b>						
Office of Capital Access	A	A	A	A	A	A
State	A	N/C	N/C	A	A	A
<b>Transportation</b>						
Federal Aviation Administration	A	A	A	A	A	A
National Highway Traffic Safety Administration	A	A	A	A	A	A
<b>Treasury</b>						
Internal Revenue Service	A	B	A*	A	A	A
Veterans Affairs	A	N/C	N/C	A	A	A

Non-Cabinet Agencies	Overall	Comments ^		SBREFA Compliance		
		Response Timeliness	Response Quality	Non-Retaliation Policies	Compliance Assistance	SBREFA Notification
Consumer Financial Protection Bureau	A	N/C	N/C	A	A	A
Consumer Product Safety Commission	B	N/C	N/C	A	A	C
Environmental Protection Agency	A	A	A	A	A	A
Equal Employment Opportunity Commission	A	N/C	N/C	A	A	A
Federal Communications Commission	C	F <sup>+</sup>	N/R	A	F	A
Federal Deposit Insurance Corporation	A	N/C	N/C	A	A	N/A
Federal Energy Regulatory Commission	A	A	A	A	A	A
Federal Reserve Board	A	N/C	N/C	A	A	N/A
Federal Trade Commission	A	A	A	A	A	A
General Services Administration	A	N/C	N/C	A	A	N/A
National Aeronautics and Space Administration	B	N/C	N/C	A	A	C
National Credit Union Administration	A	N/C	N/C	A	N/A	N/A
National Labor Relations Board	A	N/C	N/C	A	A	N/A
Nuclear Regulatory Commission	C	N/C	N/C	F	A	C
National Science Foundation	A	N/C	N/C	A	A	A

Non-Cabinet Agencies	Overall	Comments <sup>^</sup>		SBREFA Compliance		
		Response Timeliness	Response Quality	Non-Retaliation Policies	Compliance Assistance	SBREFA Notification
Pension Benefit Guaranty Corporation	A	N/C	N/C	A	A	A
Securities and Exchange Commission	A	N/C	N/C	A	A	A

## Agency Ratings Footnotes and Comments

**Note:** A Cabinet Department’s subordinate organizational unit is listed separately if it received at least one enforcement action-related comment during the fiscal year.

**^:** Comment timeliness and quality ratings are based on agency responses provided to ONO as of 2/1/21 (if any), which is 120 days following the close of FY2020 (120 days is the maximum time allowed for a response to receive a timeliness grade other than “F”).

**N/A:** Not applicable. The agency asserts that it is not subject to this aspect of SBREFA due to the nature of its charter.

**N/C:** No comments relating to an agency enforcement action were filed with ONO; consequently, there is no basis for scoring the timeliness or quality of responses provided to such comments.

**N/R:** No response. ONO did not receive a response from the agency to the comment relating to an enforcement action.

**X:** The agency did not respond to the Federal Agency Questionnaire.

**\*:** Response quality rating is based on responses to 2014, 2015, FY2016, FY2017, FY2018 and cases received in FY2020.

**†:** On June 16, 22 and August 13 and 14, 2020, FCC staff were in communications with the Small Business Administration’s (SBA) Office of Advocacy, and the Office of the National Ombudsman (ONO). On August 13, 2020, ONO advised the Enforcement Bureau (Bureau) that it refers an enforcement proceeding to the agency for a “fairness review.” Second, ONO informed the Bureau that “the SBREFA review in no way prevents the FCC from proceeding with [its] investigation.” Based on these communications, the Bureau believed it could proceed with its investigation consistent with the SBA’s email of August 13. The underlying enforcement investigation is ongoing and remains confidential to protect the privacy of the subject business entity and ensure the integrity of the Bureau’s investigative process.

# CH 05

## Revitalization for Small Businesses in the Years to Come



# REVITALIZATION FOR SMALL BUSINESSES IN THE YEARS TO COME

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Despite the myriad challenges FY2020 presented, the Office of the National Ombudsman (ONO) continued to be a resource for small business relief, recovery, and revitalization for hundreds of small business entities across the United States. Working in lockstep with its federal partners, ONO faced the obstacles of the pandemic, economic uncertainty, and increased technological pressures by strategically embracing innovation and new ideas. Through each move ONO made in FY2020, it held federal agencies accountable while acting as a sounding board for small business concerns through its outreach events and Regional Regulatory Fairness Boards. The small business sector experienced one of its most tumultuous years to date, and ONO stepped up to provide the necessary assistance to keep them afloat.

## Looking Ahead to FY2021 and Beyond

### The Importance of Outreach and Accessibility

Moving forward, ONO will target outreach activities to entrepreneurs in greatest need of assistance, focusing on regions that the National Ombudsman has not recently visited. ONO aims to maintain 50 outreach events in both FY2021 and FY2022. The SBA will also leverage technology to expand its influence with more small business communities and cultivate more relationships with trade association leaders and SBA resource partners. Additionally, ONO will deploy Regional Regulatory Fairness Board members to reach small businesses within their respective networks. The SBA will canvass its small business industry partners and leadership organization to fill the remaining board member vacancies with high-caliber candidates.

In continuing to support small business revitalization, ONO will emphasize the need for federal agencies to provide compliance assistance to small businesses and for the compliance education materials to be informative, accessible, and user-friendly. Federal agencies self-certify that they are compliant with congressional reporting requirements in accordance with Section 212 of the Small Business Regulatory Enforcement Fairness Act.

### Communication and Marketing Innovations

ONO will remedy issues between small businesses and federal agencies at the preliminary stages of conflict and continue bringing small businesses' regulatory enforcement concerns to the attention of federal agencies. ONO will inform its federal partners of systemic issues that adversely impact small businesses, which will reduce the likelihood of costly litigation and settlements. ONO recognizes its unique role in the small business sphere and will continue to work toward regulatory relief and economic revitalization in the years to come.



Office of the  
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