

President Taps FTC Economist Shelanski To Lead OMB Regulatory Affairs Office

By [Stephen Lee](#)

Howard Shelanski, a Federal Trade Commission economist, was nominated April 25 to head the Office of Information and Regulatory Affairs, the branch of the White House Office of Management and Budget that reviews agency regulations before they are issued.

Shelanski has been the director of the FTC's Bureau of Economics since 2012. From 2009 to 2011, Shelanski served as deputy director for antitrust in the FTC's Bureau of Economics. During the Clinton administration, he served as chief economist of the Federal Communications Commission and senior economist for the President's Council of Economic Advisers.

He has also spent time in private practice with Davis, Polk & Wardwell LLP, and Kellogg, Huber, Hansen, Todd, Evans & Figel PLLC, and in academia with the University of California at Berkeley and Georgetown University Law Center, from which he is currently on leave.

OIRA's former chief, Cass Sunstein, resigned in October 2012. Since then the agency has been led on an interim basis by Acting Administrator Boris Bershteyn until his tenure expired in early March 2013. Deputy Administrator Dominic Mancini then assumed leadership of the agency.

Shelanski's nomination came one day after the Senate confirmed Sylvia Mathews Burwell, a former top aide to President Clinton, to become the next director of OMB by a 96-0 margin. Shelanski's nomination also must be confirmed by the Senate.

Real-World Experience Praised.

Michael Livermore, executive director of New York University's Institute for Policy Integrity, praised the selection of Shelanski, saying he brings to the job more real-world experience at a regulatory agency than any previous OIRA administrator.

Livermore also called Shelanski a “technocrat in orientation and pragmatic. I don't think he's going to come to the position with a lot of ideological baggage or a particular axe to grind.”

But some worker advocates said they had not yet determined whether to support Shelanski's nomination.

“We really don't know,” said Amit Narang, regulatory policy advocate at Public Citizen. “I think he's somewhat of a blank slate. So we'll wait and see.”

Narang said he would pay particular attention during Shelanski's confirmation hearing to learn about his views on increasing transparency around OIRA's decisionmaking, his interest in

addressing the backlog of rules currently under OIRA review, and the general role he sees OIRA playing in enabling federal agencies to meet their congressionally mandated responsibilities.

Shelanski's background at FCC and FTC—both regulatory agencies—should be helpful were he to be confirmed for the OIRA job, Narang said.

Advocates Want Dedication to 'Public Interest.'

Rena Steinzor, a law professor at the University of Maryland and president of the Center for Progressive Reform, wrote in an April 26 blog post that senators should ask Shelanski whether he considers the job of the OIRA administrator to “advance the public interest or to appease regulated industries,” and whether he will “continue to insist on substituting biased cost-benefit analyses for the impact analyses specified in statute.”

Steinzor and others have criticized the cost-benefit approach to evaluating rules, calling it a tool administrations use to strike down proposed regulations. The cost-benefit approach is made all the more dangerous, according to Steinzor, by the fact that it creates a false impression of mathematical rigor.

“We need an OIRA administrator dedicated to the public's interest, someone with a proactive vision for tackling health and safety threats,” said Katherine McFate, president of the Center for Effective Government. “We need someone who will look at the Texas fertilizer plant explosion, the BP oil spill, the financial collapse and ask, ‘What kinds of rules do we need in place to prevent this from happening in the future?’”

Link to Pro-Business Think Tank?

Shelanski's biography, along with a selection of his articles, also appear on the website of the pro-market Mercatus Center, a think tank funded, in part, by the Koch family, which has been criticized by Democratic lawmakers and progressive activists. A Mercatus Center spokeswoman said his biography is listed because he has been a speaker at Mercatus events.

Livermore said Shelanski's participation in Mercatus Center events signals not that he is “a Trojan horse for the Mercatus Center,” but rather that he is “open to views from a wide range of different sources.”