### I. Unmeasured Costs of Shortcomings in Administrative Procedure Act Oversight

**A. Rule Cost Categories Prone to Escaping Measurement and Disclosure**

- Costs of rules not deemed economically significant by agencies that in fact are
- Costs of independent agency regulations
- Costs of unfunded mandates on states and localities
- Costs of interpretive rules and guidance documents
- Indirect costs
- Job costs of regulation

**B. Process/Oversight Shortcomings Generating Unknown Financial and Societal Costs**

- Costs of abandonment of formal rulemaking
- Costs of agencies’ failure to issue a notice of proposed rulemaking for a significant portion of rules
- Costs of agency-gamed notice-and-comment processes
- Costs of agencies’ undermining the Congressional Review Act by failing to submit final rules to Congress and to the Government Accountability Office for consideration
- Costs of baked-in pro-regulatory bias
- Costs of economically disruptive policy uncertainty
- Costs of regulation by sue-and-settle agreements
- Costs of differential effects of rules on businesses

### II. Unmeasured Costs of the Loss of Liberty

- Costs of regulatory takings and property value destruction
- Costs of abandoning negative rights for a positive rights framework that entails unequal treatment of citizens under the law
- Costs of delegation of lawmaking power to the executive branch and to unelected administrators
- Costs of lack of agency accountability to Congress through agency self-funding
- Costs of normalization of dependency
- Costs of imposing regulation based on secret or creatively leveraged data
- Costs of abandoned federalism
- Costs of overcriminalization
- Costs of loss of anonymity due to state surveillance

### III. Costs of Spending and Legislative Programs with Sweeping Regulatory Effect

- Costs of top-down national plans, agendas, and treaties
- Costs of distortions created by “ordinary” federal spending, subsidies, and stimulus
- Costs of deadweight effects of federal spending
- Costs of government spending to steer investment in science and technology

### IV. Costs of the Derailment of Market Institutions

- Costs of the presumption of agency expertise
- Costs of disregard of government failure
- Costs of interference with price, distribution, and access mechanisms
- Costs of antitrust regulation and the institutionalization of raising competitors’ costs
- Costs of blurring corporate and government roles with government-sponsored enterprises and public-private partnerships
- Costs of government steering by direct ownership or control of resources
- Costs of eroded property rights
- Costs of regulatory public utility, siloed-infrastructure models
- Costs of top-down approaches to environmental amenities and concerns
- Costs of permission-seeking and excessive occupational licensing
- Costs of cronyism through rent-seeking
- Costs of permanent bureaucracy

### V. Costs of Lethality

- Costs of the precautionary principle and the derailment of normal evolutionary risk-management innovation
- Costs of selective expression of benefits
- Costs of wealth and health loss induced by regulation
- Health costs of rent-seeking
- Costs of undermining markets in information

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**Box 3. Unmeasured Costs of the Administrative State**