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QUICK READ

In Good Times and Bad: Designing Legislation That Responds to Fiscal Uncertainty

Congress moves slowly to change tax and spending laws when circumstances change, but there are ways to design legislation to anticipate and prevent the tendency towards "policy drift", David Kamin (New York University School of Law) argues.

Enactment of major pieces of legislation tends to be followed by periods of legislative stasis, even when economic conditions change, he says, pointing to the American Recovery and Reinvestment Act as an example. The Great Recession proved significantly deeper than forecasters had predicted, but as new information became available, Congress did little to alter the fiscal stimulus in response, other than to continue certain expiring provisions.

Kamin dissects four mechanisms that could combat policy drift: While requiring little effort from Congress on the details, **delegation** of legislative authority to administrative agencies distances Congress from the decision-making process; agencies are also prone to long delay in making decisions. **Triggers** come in two varieties: **Automatic-adjustment triggers** are responsive to changes in economic conditions and provide a high degree of certainty, but are difficult to design; **Alarm bell triggers** are easier for Congress to create than automatic triggers, but they provide no certainty of future policy actions and do not require congressional action even when they sound**.** **Expiration dates** are simple to craft and force Congress to revisit issues, but they create uncertainty and the expiration dates don't always coincide with changes in conditions. **Indexing** to adjust policy as conditions change removes uncertainty and is highly responsive to economic conditions, but it is difficult to design and can entrench old policies.

PREVENTING POLICY DRIFT

The pros and cons of mechanisms that could prevent policy inertia, the tendency of Congress to stick with policies that are no longer appropriate.

	Responsive to economic conditions	Easy for Congress to initiate	Reduces uncertainty	Holds Congress accountable
1. Delegation of legislative authority	mixed	yes	no	no
2a. Automatic-adjustment triggers	yes	no	yes	mixed
2b. Alarm bell triggers	no	mixed	no	yes
3. Expiration dates for legislation	mixed	yes	no	yes
4. Indexing	yes	no	yes	mixed

= yes
= no
= mixed

Kamin concludes that automatic-adjustment triggers tend to be most effective in preventing policy drift, and recommends them for countercyclical policy and Social Security, in particular. When economic conditions deteriorate, he suggests that triggers could be in place that would automatically adjust levels of aid to states and federal infrastructure spending, provide tax cuts, and adjust the length of eligibility for unemployment benefits. In order to maintain the solvency of Social Security, he proposes that benefits and taxes be indexed to changes in estimates of the program's solvency over 75 years. When there is a projected shortfall or surplus, the law would trigger adjustments in benefits and taxes to offset.

For Medicare, Kamin suggests a combination of indexing on the revenue side, and increased delegation on the spending side. Medicare revenues would be indexed to health cost growth through a combination of payroll taxes and income taxes in order to maintain the current mixed financing system. To keep payments in check, he suggests strengthening mechanisms like the Independent Payment Advisory Board by lowering its trigger, currently set to trigger only if health care cost growth exceeds GDP growth plus one percentage point, by lowering the point at which it is triggered.