



CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

June 28, 2016

H.R. 3798 **Due Process Restoration Act of 2015**

As ordered reported by the House Committee on Financial Services on March 2, 2016

SUMMARY

Under current law, the Securities and Exchange Commission (SEC) may bring legal actions against parties deemed to have violated laws governing financial transactions and financial disclosures either through administrative proceedings heard by the SEC's in-house administrative law judges or by filing a civil action in a U.S. federal district court. H.R. 3798 would allow parties to administrative proceedings brought by the SEC to require the agency to terminate such proceedings. The SEC then would have the option to bring civil actions in a federal district court against the parties that terminated their administrative proceedings. The bill also would define the standard of proof that would apply in administrative proceedings.

CBO estimates that enacting H.R. 3798 would decrease revenues by \$553 million over the 2017-2026 period; therefore, pay-as-you-go procedures apply. Enacting the bill would not affect direct spending.

In addition, CBO estimates that implementing the bill would increase discretionary costs for the SEC by about \$4 million per year over the 2017-2021 period for administrative expenses related to the expected increase in the number of civil actions. However, the SEC is authorized to collect fees sufficient to offset its annual appropriation; therefore, CBO estimates that the net effect on discretionary spending would be negligible, assuming appropriation actions consistent with the legislation.

CBO estimates that enacting H.R. 3798 would not increase net direct spending or on-budget deficits by more than \$5 billion in any of the four consecutive 10-year periods beginning in 2027.

H.R. 3798 contains no intergovernmental mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would not affect the budgets of state, local, or tribal governments.

If the SEC increases fees to offset the costs of implementing the bill, H.R. 3798 would increase the cost of an existing mandate on private entities required to pay those fees. Based on information from the SEC, CBO estimates that the incremental cost of the mandate would be small and fall well below the annual threshold for private-sector mandates established in UMRA (\$154 million in 2016, adjusted annually for inflation).

ESTIMATED COST TO THE FEDERAL GOVERNMENT

The estimated budgetary effect of H.R. 3798 is shown in the following table. The costs of this legislation fall within budget function 370 (commerce and housing credit).

	By Fiscal Year, in Millions of Dollars											
	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	2017-2021	2017-2026
DECREASES IN REVENUES ^a												
Penalties	-250	-253	-6	-6	-6	-6	-6	-6	-7	-7	-521	-553

a. In addition, CBO estimates that the net effect of the legislation on spending that is subject to appropriation would be negligible.

BASIS OF ESTIMATE

For this estimate, CBO assumes that the bill will be enacted late in fiscal year 2016, the necessary amounts will be appropriated near the start of each year, and spending will follow historical patterns for the SEC.

Revenues

Current law authorizes the SEC to bring legal actions against parties deemed to have violated laws governing financial transactions and financial disclosures using either in-house administrative proceedings or civil actions in federal district court. A portion of the amounts that parties found liable are ordered to pay as a result of either type of proceeding is remitted to the Treasury and recorded in the budget as revenue. Under current law, CBO estimates that revenues from those legal actions will total roughly \$700 million per year; approximately \$500 million of that amount stems from cases that will be handled through the SEC’s administrative proceedings.

Based on information provided by the SEC, CBO expects that enacting H.R. 3798 would not affect the overall number of actions brought by the SEC or the total penalties resulting from such actions. However, CBO expects that under H.R. 3798, half of the cases that would have been handled by the SEC in administrative proceedings under current law would instead be handled in civil proceedings in federal district court. Civil proceedings take, on average, two years longer than SEC administrative proceedings. CBO estimates that moving more legal actions into district courts would delay by two years the collection of revenues related to civil proceedings that would otherwise have been settled as administrative proceedings. As a result, CBO estimates that enacting H.R. 3798 would reduce revenues by \$553 million over the 2017-2026 period; most of that reduction would occur in 2017 and 2018.

Spending Subject to Appropriation

On the basis of information provided by the SEC, CBO expects that the agency would need about 15 additional staff to handle the increased number of court cases that would occur under the bill—those cases require more staff than administrative proceedings. CBO therefore estimates that implementing H.R. 3798 would increase the SEC’s costs by about \$4 million per year, assuming appropriation of those additional amounts. However, the SEC is authorized to collect fees sufficient to offset its funding; therefore, CBO estimates that implementing the bill would have a negligible effect on discretionary spending, assuming appropriation actions consistent with the legislation.

PAY-AS-YOU-GO CONSIDERATIONS

The Statutory Pay-As-You-Go Act of 2010 establishes budget-reporting and enforcement procedures for legislation affecting direct spending or revenues. The net changes in revenues that are subject to those pay-as-you-go procedures are shown in the following table.

CBO Estimate of Pay-As-You-Go Effects for H.R. 3798, as ordered reported by the House Committee on Financial Services on March 2, 2016

	By Fiscal Year, in Millions of Dollars												
	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	2016-2021	2016-2026
NET INCREASE IN DEFICITS													
Statutory Pay-As-You-Go Impact	0	250	253	6	6	6	6	6	6	7	7	521	553

IN LONG TERM DIRECT SPENDING AND DEFICITS

CBO estimates that enacting H.R. 3798 would not increase net direct spending or on-budget deficits by more than \$5 billion in any of the four consecutive 10-year periods beginning in 2027.

ESTIMATED IMPACT ON STATE, LOCAL, AND TRIBAL GOVERNMENTS

H.R. 3798 contains no intergovernmental mandates as defined in UMRA and would not affect the budgets of state, local, or tribal governments.

ESTIMATED IMPACT ON THE PRIVATE SECTOR

If the SEC increases fees to offset the costs of implementing the bill, H.R. 3798 would increase the cost of an existing mandate on private entities required to pay those fees. Based on information from the SEC, CBO estimates that the SEC would need to increase fees by no more than \$5 million per year to cover costs associated with an increase in the number of civil court proceedings used in lieu of administrative proceedings. Therefore, the incremental cost of the mandate would fall well below the annual threshold for private-sector mandates established in UMRA (\$154 million in 2016, adjusted annually for inflation).

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