



CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

October 12, 2001

H.R. 1408 **Financial Services Antifraud Network Act of 2001**

As ordered reported by the House Committee on the Judiciary on October 10, 2001

SUMMARY

CBO estimates that enacting H.R. 1408 would have no significant impact on the budget. Enacting the legislation could affect direct spending and receipts, so pay-as-go procedures would apply; however, we estimate that any such impacts would not be significant. H.R. 1408 contains intergovernmental and private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA), but CBO estimates that the costs would not be significant and would not exceed the thresholds established in that act (\$56 million for intergovernmental mandates and \$113 million for private-sector mandates in 2001, adjusted annually for inflation).

H.R. 1408 would require financial regulators to coordinate their computer systems to share information about fraud. The affected regulators would include private regulatory organizations, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation (FDIC), the National Credit Union Administration (NCUA), the Office of the Comptroller of the Currency (OCC), the Office of Thrift Supervision (OTS), the Securities and Exchange Commission (SEC), and state regulators of the banking, insurance, and securities industries.

The bill also would establish criminal penalties for regulators who intentionally disclose confidential or privileged information to the public. Finally, the bill would authorize these regulators to request the Federal Bureau of Investigation (FBI) to conduct criminal background checks on individuals in the financial services industry, and it would impose criminal penalties for the improper use of such information.

ESTIMATED COST TO THE FEDERAL GOVERNMENT

CBO estimates that coordinating computer systems among the affected regulatory organizations would cost about \$2 million over the 2002-2003 period and insignificant amounts in subsequent years. We estimate, however, that these costs would be largely offset by fees, and that the net effect on the budget would be negligible.

Those prosecuted and convicted under H.R. 1408 could be subject to criminal fines; therefore, the federal government might collect additional fines if the bill is enacted. Collections of such fines are recorded in the budget as governmental receipts (revenues), which are deposited in the Crime Victims Fund and spent in subsequent years. CBO estimates that any impact of this legislation on collections of fines (and subsequent spending) would not be significant.

BASIS OF ESTIMATE

Federal financial regulators currently provide information about enforcement and disciplinary actions via the Internet. Under the bill, CBO expects that the financial regulators would create a search engine to share information about fraud, and that the FDIC, the NCUA, the OCC, or the OTS would bear the costs of this new system. The NCUA, the OCC, and the OTS charge fees to cover all their administrative costs; therefore, additional spending by those agencies would have no significant net budgetary effect. That is not the case with the FDIC, however. Because the balances in the deposit insurance funds exceed the levels required under current law, deposit insurance premiums would not be affected by a small amount of additional spending. Therefore, CBO expects that costs incurred by the FDIC would not be recovered by raising insurance premiums.

The Federal Reserve remits its profits to the Treasury, and those payments are classified as governmental receipts in the federal budget. To the extent that the Federal Reserve bears the costs of sharing information, H.R. 1408 would reduce receipts, but CBO estimates that any such impact would be negligible. If federal financial regulators that receive annual appropriations, such as the SEC, bear the costs of sharing information, H.R. 1408 could increase discretionary spending, subject to the availability of appropriated funds.

PAY-AS-YOU-GO CONSIDERATIONS

The Balanced Budget and Emergency Deficit Control Act sets up pay-as-you-go procedures for legislation affecting direct spending or receipts. Under the Balanced Budget and Emergency Deficit Control Act, legislation to provide funding necessary to meet the

government's deposit insurance commitment is excluded from pay-as-you-go procedures. CBO expects that the cost to the FDIC and other financial regulators to establish a system to share information on fraud would be related to the safety and soundness of the banking system, and thus would be excluded. Although H.R. 1408 would establish new criminal penalties, CBO estimates that any impact of this legislation on the collection of criminal fines and subsequent spending would not be significant.

INTERGOVERNMENTAL AND PRIVATE-SECTOR IMPACT

The bill would require state and private financial regulators to:

- Participate in a network that links databases containing information on final enforcement and disciplinary actions they take. The bill does not require regulators to create new databases; rather, if such databases of public information exist, those regulators must make the contents available to the network.
- Provide notice to persons against whom enforcement or disciplinary action is taken based on information from the network. Such notice would include the identity of the network participant who provided the information, a description of the information received, and an opportunity to respond to the information.

The requirement to make information available to the network and to meet certain notice requirements would constitute both private-sector and intergovernmental mandates.

The bill also would preempt certain state disclosure laws that would apply to the regulatory information released to the network, to the extent that state laws provide less confidentiality or a weaker privilege than the bill provides. The bill also would require state insurance regulators, when being audited by the General Accounting Office (GAO), to make all records available to GAO as part of the audit. The preemption and new requirement would be intergovernmental mandates.

Based on information from governmental and industry sources, CBO estimates that the costs of these mandates would not be significant, and would not exceed the thresholds established in UMRA. Because the regulators would be required to provide information from databases that already exist, the costs to regulators would be incurred only to bring those databases into compliance with the network design. The notice requirements would expand the procedures states already follow in their regulatory process and would impose minimal costs.

The bill would place certain eligibility requirements on state insurance commissioners and state securities administrators in order to access information from the network. These eligibility provisions affect voluntary access to network information and therefore are not mandates.

PREVIOUS CBO ESTIMATE

On July 17, 2001, CBO transmitted a cost estimate for H.R. 1408, as ordered reported by the House Committee on Financial Services on June 27, 2001. The two versions of the bill are nearly identical, and their budgetary effects are the same.

ESTIMATE PREPARED BY:

Federal Costs: Mark Hadley and Ken Johnson

Impact on State, Local, and Tribal Governments: Susan Sieg Tompkins

Impact on the Private Sector: Paige Piper/Bach

ESTIMATE APPROVED BY:

Robert A. Sunshine

Assistant Director for Budget Analysis