CONGRESSIONAL BUDGET OFFICE
COST ESTIMATE

March 17, 2016

H.R. 3868
Small Business Credit Availability Act

As ordered reported by the House Committee on Financial Services on November 4, 2015

SUMMARY

H.R. 3868 would direct the Securities and Exchange Commission (SEC) to amend certain regulations that affect business development companies (BDCs) – companies that operate like a mutual fund to invest in the stocks of small, private companies and offer significant managerial assistance to the issuer. H.R. 3868 would allow BDCs to invest in advisors to investment companies and would raise the limits on the amount of leverage allowed to a BDC.

The staff of the Joint Committee on Taxation (JCT) estimates that enacting H.R. 3868 would reduce federal revenues by $95 million over the 2016-2026 period; therefore, pay-as-you-go procedures apply. CBO estimates that enacting H.R. 3868 would not affect direct spending.

CBO estimates that implementing H.R. 3868 would increase spending by the SEC by less than $500,000 per year to amend certain regulations affecting BDCs. 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.

CBO and JCT estimate that enacting the legislation 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. 3868 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would not affect the budgets of state, local, or tribal governments.

ESTIMATED COST TO THE FEDERAL GOVERNMENT

The estimated budgetary effect of H.R. 3868 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												
	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	2016-2021	2016-2026
						CHANGES IN REVENUES[a]							
Estimated Revenues	*	-1	-4	-6	-8	-9	-11	-12	-13	-14	-16	-29	-95

Notes: Details do not add to totals because of rounding; * = between zero and - $500,000

a. Negative numbers denote decreases in revenues.

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

JCT estimates that revenue losses under H.R. 3868 would result from a shift in business lending and taxable income from C corporations to BDCs, which are pass-through entities for tax purposes. Specifically, H.R. 3868 would allow BDCs to take on additional debt, increasing the amount they can borrow to a maximum of $4 dollars for every $6 dollars they hold in assets; under current law, they can borrow up to $3 for every $6 they hold in assets. The bill also would allow BDCs to issue preferred stock, and BDCs would be able to invest in securities issued by certain financial institutions and by registered investment advisors.

Generally, the income of interests in pass-through entities (like BDCs) that are owned by individual taxpayers is treated as personal income; such income is subject only to the individual income tax, and is taxed at the personal income tax rates of the businesses' owners. In contrast, taxable income from C corporations is subject to the corporate income tax, and that income can be taxed again at the individual tax level after it is distributed to shareholders or investors. JCT estimates that, by shifting income from C corporations to BDCs, this legislation would reduce tax revenues by $95 million over the 2016-2026 period.

Spending Subject to Appropriation

Based on information from the SEC, CBO expects that the agency would need the equivalent of two additional staff positions to meet the bill's deadline for issuing new regulations and to monitor compliance with those regulations once finalized. CBO estimates that implementing the provisions of H.R. 3868 would cost less than $500,000 per year. Because the SEC is authorized to collect fees sufficient to offset its appropriation each year, CBO estimates that implementing H.R. 3868 would have a negligible effect on net outlays each year, assuming appropriation actions consistent with the agency's authority.

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. 3868, as ordered reported by the House Committee on Financial Services on November 4, 2015

	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 THE DEFICIT													
Statutory Pay-As-You-Go Impact	0	1	4	6	8	9	11	12	13	14	16	29	95

INCREASE IN LONG-TERM DIRECT SPENDING AND DEFICITS

CBO and JCT estimate that enacting the legislation 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.

INTERGOVERNMENTAL AND PRIVATE-SECTOR IMPACT

H.R. 3868 contains no intergovernmental or private-sector mandates as defined in UMRA and would not affect the budgets of state, local, or tribal governments.

ESTIMATE PREPARED BY:

Federal Spending: Kim Cawley
Federal Revenues: Staff of the Joint Committee on Taxation
Impact on State, Local, and Tribal Governments: Leo Lex
Impact on the Private Sector: Logan Smith

ESTIMATE APPROVED BY:

H. Samuel Papenfuss
Deputy Assistant Director for Budget Analysis