

### At a Glance

## H.R. 3701, Strengthening Fraud Protection Provisions for SEC Enforcement Act of 2019

As ordered reported by the House Committee on Financial Services on July 16, 2019

By Fiscal Year, Millions of Dollars	2020	2020-2025	2020-2030
Direct Spending (Outlays)	1	106	164
Revenues	30	480	730
Increase or Decrease (-) in the Deficit	-29	-374	-566

Spending Subject to Appropriation (Outlays)	*	*	*
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Statutory pay-as-you-go procedures apply?	Yes	<b>Mandate Effects</b>	
Increases on-budget deficits in any of the four consecutive 10-year periods beginning in 2031?	No	Contains intergovernmental mandate?	No
		Contains private-sector mandate?	<b>Yes, Under Threshold</b>

\* = between -\$500,000 and \$500,000.

#### The bill would

- Lengthen the statute of limitations for the Securities and Exchange Commission (SEC) to seek civil monetary penalties for violations of securities law

#### Estimated budgetary effects would primarily stem from

- Increased collections of civil monetary penalties and distributions to harmed investors
- Increased payments to whistleblowers

#### Areas of significant uncertainty include

- Predicting the amount of penalties that the SEC orders, collects, and distributes under current law and how those collections and related spending would change under the bill
- Estimating the amount and timing of payments to whistleblowers

**Detailed estimate begins on the next page.**

## Bill Summary

H.R. 3701 would allow the Securities and Exchange Commission (SEC) to seek a civil monetary penalty from a securities law violator for 10 years after an alleged violation. Under current law, the statute of limitations is 5 years.

## Estimated Federal Cost

The estimated budgetary effect of H.R. 3701 is shown in Table 1. The costs of the legislation fall within budget function 370 (commerce and housing credit).

**Table 1.  
Estimated Budgetary Effects of H.R. 3701**

	By Fiscal Year, Millions of Dollars											2020-2025	2020-2030
	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030		
<b>Increases in Revenues</b>													
Estimated Revenues	30	140	140	70	50	50	50	50	50	50	50	480	730
<b>Increases in Direct Spending</b>													
Estimated Budget Authority	1	15	35	32	12	12	12	12	12	12	12	106	164
Estimated Outlays	1	15	35	32	12	12	12	12	12	12	12	106	164
<b>Net Decrease in the Deficit From Changes in Revenues and Direct Spending</b>													
Effect on the Deficit	-29	-125	-105	-38	-38	-38	-38	-38	-38	-38	-38	-374	-566

Using information from the Securities and Exchange Commission (SEC), CBO expects that the agency would require additional staff to prosecute additional cases brought under the bill. However, the SEC is authorized to collect fees each year sufficient to offset its annual appropriation. Assuming appropriation actions consistent with that authority, CBO estimates that any net change in discretionary spending would be negligible.

## Basis of Estimate

CBO assumes that H.R. 3701 will be enacted in 2020.

### Revenues

CBO anticipates that extending the statute of limitations to 10 years under H.R. 3701 would lead the SEC to prosecute some cases against securities law violators that it cannot prosecute under current law. As a result, CBO expects that the SEC would order and collect additional civil monetary penalties.

CBO treats collections of civil monetary penalties as revenues in the federal budget. Using data from the SEC about penalties collected in recent years, CBO estimates that enacting H.R. 3701 would increase the collection of civil monetary penalties, and thus revenues, by \$730 million over the 2020-2030 period.



## **Direct Spending**

Section 308 of the Sarbanes-Oxley Act, known as the Fair Fund provision, authorizes the SEC to distribute civil monetary penalties to harmed investors. For this cost estimate, CBO has displayed distributions of additional revenues as direct spending. Based on distribution patterns from enforcement actions in recent years, CBO estimates that H.R. 3701 would increase outlays by \$140 million over the 2020-2030 period.

In addition, the SEC provides monetary awards to whistleblowers who report violations that lead to judicial or administrative enforcement actions yielding more than \$1 million in penalties. Whistleblowers are eligible to receive between 10 percent and 30 percent of any penalties that would be ordered and collected. CBO expects that a small portion of the additional cases brought under H.R. 3701 would stem from whistleblower information. CBO estimates that over the 2020-2030 period, the SEC would pay \$24 million in additional whistleblower awards, which are recorded as direct spending in the federal budget.

In total, CBO expects that enacting H.R. 3701 would increase direct spending by about \$164 million over the 2020-2030 period.

## **Uncertainty**

Because the amount of penalties that the SEC orders, collects, and distributes from securities law violations is hard to predict and varies from year to year, estimating the budgetary effects of H.R. 3701 is uncertain; collections could be higher or lower than CBO estimates. Several other factors also could affect the estimated change in revenues under the bill, including the number of additional cases the SEC would pursue under the lengthened statute of limitations, the amounts collected in civil penalties, and how much the SEC would return to harmed investors. In addition, because the amount and timing of payments to whistleblowers depends on factors such as the number of whistleblowers and the size of awards each year, all of which are hard to predict, the total amounts could be higher or lower than CBO estimates.

## **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 outlays and revenues that are subject to those pay-as-you-go procedures are shown in Table 2.



**Table 2.**  
**CBO's Estimate of the Statutory Pay-As-You-Go Effects of H.R. 3701, the Strengthening Fraud Protection Provisions for SEC Enforcement Act of 2019, as Ordered Reported by the House Committee on Financial Services on July 16, 2019**

	By Fiscal Year, Millions of Dollars											2020- 2025	2020- 2030
	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030		
	<b>Net Decrease (-) in the Deficit</b>												
Pay-As-You-Go Effect	-29	-125	-105	-38	-38	-38	-38	-38	-38	-38	-38	-374	-566
<b>Memorandum:</b>													
Changes in Outlays	1	15	35	32	12	12	12	12	12	12	12	106	164
Changes in Revenues	30	140	140	70	50	50	50	50	50	50	50	480	730

**Increase in Long-Term Deficits:** None.

## Mandates

If the SEC increased fees to offset the costs associated with implementing the bill, H.R. 3701 would increase the cost of an existing mandate on private entities required to pay those fees. CBO estimates that the incremental cost of the mandate would be below the annual threshold established in the Unfunded Mandates Reform Act (UMRA) for private-sector mandates (\$168 million in 2020, adjusted annually for inflation).

The bill contains no intergovernmental mandates as defined in UMRA.

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